

# Representing Care: Toward a More Family-Friendly Parliament

— Rosalind Dixon, Kate Jackson, Matthew McLeod



PATHWAYS  
TO POLITICS  
PROGRAM  
FOR WOMEN



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Thank you to the Hon Courtney Houssos, member of the Pathways to Politics Program for Women advisory committee, for the report's cover photograph featuring her son Arthur.

## About this report

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This report was produced by UNSW Sydney in partnership with the Pathways to Politics Program for Women, a national non-partisan initiative working to change the face of politics by equipping women with the skills, knowledge, confidence, and networks they need to run for elected office and thrive as political leaders.



## About the Pathways to Politics Program for Women



The Pathways to Politics Program for Women is a national, proudly non-partisan initiative that aims to change the face of politics by equipping women with the skills, knowledge, confidence and networks they need to run for elected office and thrive as political leaders.

This initiative of the Trawalla Foundation, Women's Leadership Institute Australia and University of Melbourne seeks to address the underrepresentation of women in Australian politics, and is delivered in partnership with state-based university partners University of Melbourne, QUT and UNSW.

Pathways to Politics brings together significant expertise and experience from across Australia's political spectrum to provide participants with networking opportunities, practical training that emphasises good governance, ethics and leadership, and supports a strong and inclusive cohort culture.

The program has realised significant impact in advancing female political participation since it launched in 2016, with 19\* electoral successes achieved nationally across the political spectrum at local, state, and federal levels of government.

\* correct at the time of report publication, February 2022

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## I Introduction

Australians care deeply about the availability of high-quality, affordable child-care for themselves and their families. They should also care about how care is accommodated within the Commonwealth and state parliaments. The Commonwealth Parliament in particular decides how care should be funded and regulated. As such, we have good reason to want the Parliament to include those with caregiving responsibilities as members.

It should be acknowledged from the outset that parliaments are unique workplaces, because of their role in democratic decision-making. There will be times when the unpredictable demands of lengthy sitting hours and last-minute travel may be at odds with caring obligations. However, this should not be a barrier to introducing structural reforms which acknowledge and actively address the gendered shortcomings of our current parliamentary practices. Both federal and state parliaments *should* be a model workplace so there is significant impetus to ensure that the diversity of politicians' experience and obligations is balanced against broader democratic demands.

Instituting structural reforms to allow Parliament to accommodate those with caring responsibilities is crucial to ensuring that Australia can achieve a gender equal Parliament. Women in Australia continue to bear a disproportionate responsibility for the (unpaid) care of children and elderly relatives.<sup>1</sup> If Parliament is unable to reconcile caring responsibilities with democratic duties, female-identifying candidates will be disincentivised to run for election, and to remain in Parliament long-term.<sup>2</sup> Not only does this threaten the ability of the federal Parliament to achieve true substantive gender equality, but it also jeopardises Parliament's ability to enact gender-sensitive policies.

**Both federal and state parliaments *should* be a model workplace, so there is significant impetus to ensure that the diversity of politicians' experience and obligations is balanced against broader democratic demands.**



1 See, eg, Australian Bureau of Statistics, *Gender Indicators, Australia 2020* (Catalogue No 41250DS0010, 15 January 2020).

2 In the remainder of the report, we largely refer to women as the focus of efforts to produce a more gender equal Parliament. But we acknowledge that these concerns extend to including non-binary and transgender candidates, including but not limited to those with care-giving responsibilities.

In this report **we propose five amendments to parliamentary practices** which seek to make Parliament more 'care-friendly' and accessible to those with significant caring responsibilities:

- 1 Amendments to Standing Orders to remove children from the definition of 'strangers' not permitted in the chambers;
- 2 Changes to the parliamentary calendar and sitting hours, so as better to align with child-care hours and school holidays;
- 3 Parental leave for Members of Parliament;
- 4 Increased investments in child-care facilities and options for remote learning for the school-aged children of Members of Parliament; and
- 5 More use of 'Zoom' and other virtual platforms for parliamentary hearings, such as committee hearings.

Parts II and III of this report analyse the proposed reforms by reference to the impetus and impact upon federal Parliament, before returning to the impact on state and territory parliaments in Part IV.

We acknowledge that some of these proposals, such as the adjustments to parliamentary sitting hours, challenge us to reconsider existing assumptions about how Parliament can and should operate. However, it is our belief that these proposals will simply codify, guarantee or extend long-standing practices, and/or changes which were introduced to mitigate the unique challenges of the COVID-19 pandemic. It is necessary to formalise such policies to ensure that female-identifying candidates are sufficiently confident that they will be structurally supported when pursuing a political career. Moreover, while we acknowledge that some of the proposed reforms, specifically the child-care and remote-learning facilities, would require modest additional government expenditure, others, such as the virtual committee hearings, would represent substantial budgetary savings.

Our proposals do not constitute a panacea to the current challenges facing female-identifying politicians in the Australian parliaments, nor are they the only changes required to establish an entrenched family-friendly and inclusive culture at Parliament House. We, like others, welcome the recommendations of the Jenkins Report<sup>3</sup> (and other reviews) in relation to such issues as complaints handling, quotas, and changes to Question Time.<sup>4</sup>

**What unifies these proposals is that they would allow those with caring responsibilities to more effectively participate in the business of the Parliament.**

3 Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces* (Report, 30 November 2021) ('Jenkins Report').

4 See Claire Annesley, *Cabinets, Ministers, and Gender* (Oxford University Press, 2019); Louise Chappell, *Gendering Government: Feminist Engagement with the State in Australia and Canada* (UBC Press, 2002).

What unifies these proposals, however, is that they would allow those with caring responsibilities to more effectively participate in the business of the Parliament. In doing so, they would encourage more carers, and thus more female-identifying candidates, to run for (and stay in) office and increase the diversity of lived experiences within Parliament House.

## II Why Represent Care?

Care is one of the fundamental values of a good society. It is a key dimension of human dignity that we should show and receive care. A society characterised by care is one in which the bonds are stronger, and people enjoy a form of relational freedom — freedom to pursue relationships in which they provide and receive care.<sup>5</sup>

Care also improves the quality of social and economic outcomes. For children, for example, appropriate care is essential to the development of their full human dignity, to their capacity to lead a productive and happy life, and to receive appropriate education and social and emotional support to realise their full capacities. Without care, we know that many children have long-term health and social difficulties. They are likely to require more intense care from the state and investments from the taxpayer.

Therefore, there are many reasons for us as a society to value and invest in care at an early stage. To invest in care in an effective way, we need representatives who understand the challenges of caregiving, as well as how policy can most effectively promote and facilitate caregiving. This means ensuring that our policy makers and representatives are capable themselves of combining their official responsibilities and care work. To date, however, this has been a challenge.



<sup>5</sup> Cf Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Harvard University Press, 2007).

## A Care in Parliament

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Current parliamentary practice fails to accommodate the caring responsibilities of representatives in various ways. Long, unpredictable hours spent in sittings and committee hearings, coupled with the need for parliamentarians to travel to and from Parliament, make it extremely hard to combine caregiving and parliamentary work.<sup>6</sup> The difficulty in reconciling travel and caring obligations is perhaps most pronounced for female-identifying Members in the federal Parliament given the need to regularly travel interstate. However, it nevertheless poses a distinct imposition for female-identifying state and territory politicians, particularly those from regional electorates.

This also has distinctly gendered effects. While having children is often seen as an asset for male-identifying Members, the opposite has been true for female-identifying Members.<sup>7</sup> Women are criticised when they choose not to have children,<sup>8</sup> but are equally criticised when they choose to have children and simultaneously pursue their parliamentary careers.<sup>9</sup> Those female-identifying members who decide to do both are also met with little to no support from the Parliament itself. Parental leave times are not regularised, hours remain unpredictable, and care within the workplace is limited.

It is clear that the structural biases which prevent women's election and longevity in federal parliament are not new. In 1983, Ros Kelly became the first woman to give birth while serving in the Australian federal parliament. In the *Wife Drought*, Annabel Crabb writes:

During the treasurer's budget speech that year, Kelly left the chamber briefly. History does not record exactly why; perhaps it was to heed her baby, or perhaps it was to do the sorts of things that MPs leave the chamber for hundreds of times a day, but [Bruce] Goodluck chanted 'Where's Ros? Where's Ros?' until she returned.<sup>10</sup>

That same MP, Bruce Goodluck, had previously remarked that Ros Kelly should have stayed at home longer to care for her newborn (despite not appearing to take formal

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6 See, eg, Dan Conifer, 'Minister for Women Kelly O'Dwyer Quitting Federal Politics in Shock Resignation', *ABC News* (online, 19 January 2019) <<https://www.abc.net.au/news/2019-01-19/kelly-odwyer-quit-ting-federal-parliament/10729102>>.

7 Male parliamentarians have on average 2.1 children, while female parliamentarians have 1.2. The national average is 1.9: Annabel Crabb, *The Wife Drought* (Ebury Press, 2013) 201–2. See also Annabel Crabb, 'Google "Scott Morrison" and "Children" and "Juggle": The Result May Surprise You', *ABC News* (online, 19 September 2018) <<https://www.abc.net.au/news/2018-09-19/google-scott-morrison-children-dads-parliament-josh-frydenberg/10254550>>.

8 Former Prime Minister Julia Gillard is perhaps the most notable example of such criticism, having been described in 2007 by Senator Bill Heffernan as 'deliberately barren': see eg, Jody Day, 'Julia Gillard and the Fear of the Childless Woman', *The Guardian* (online, 25 October 2012) <<https://www.theguardian.com/commentisfree/2012/oct/25/julia-gillard-childless-woman>>.

9 For instance, when Ros Kelly became the first parliamentarian to give birth while in office in 1983, Bruce Goodluck MP (himself the father of five daughters) lambasted Kelly upon her return, saying that she should have stayed home longer to care for her baby: Crabb (n 4) 201–2.

10 Annabel Crabb, *The Wife Drought* (Ebury Press, 2013) 198.



paternity leave following the birth of each of his five daughters).<sup>11</sup>

Nevertheless, the exodus of women from all sides of politics in recent years has engendered a renewed focus upon the shortcomings of federal Parliament in accommodating the diverse needs of female-identifying politicians. In 2019, then-Minister for Women Kelly O'Dwyer announced her resignation from politics on the basis that her children 'will reach primary school age during the next parliament.'<sup>12</sup> Similarly, Kate Ellis announced in 2017 that she decided to leave Parliament 'for one simple reason: I cannot bear the thought of spending at least 20 weeks of every year in Canberra away from my son, who will be starting school in the next term of parliament, and from the rest of my family.'<sup>13</sup> The focus of gender-sensitive policies is not just how do we get women *elected into* politics, but how can we get them to *stay* once elected.

## **B Why Care about Gender Equality in Parliament?**

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Without addressing care responsibilities and making them more compatible with parliamentary work, therefore, we face a very clear challenge of ensuring substantive gender equality within the Parliament. We also remain a substantial distance from true gender equality or parity within the Commonwealth Parliament. Currently, women represent 37.9 percent of members of the federal parliament.<sup>14</sup> This differs from party to party, with women constituting 48 percent of Labor parliamentarians, but only 25 percent of Coalition ones.<sup>15</sup>

Gender equality in the Parliament matters for at least three reasons. First, a system of representative and responsible government depends on the representation of a broad range of perspectives within the Parliament. The idea of representative government is that the Parliament stands in for the people at large and engages in a form of deliberative democracy informed by the full range of reasonable perspectives within society. Without including those with significant care responsibilities, we risk excluding the full range of appropriate perspectives, but also the full range of perspectives of women and their lived experience.

Second, gender equality matters for public confidence in our system of representative and responsible government. Women comprise roughly 50 percent of the population. If they are not represented in Parliament in something like the same numbers,

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11 Ibid 197–8.

12 Conifer (n 6).

13 Paul Karp, 'Labor Frontbencher Kate Ellis to Quit Politics at next Election', *The Guardian* (online, 9 March 2017) <<https://www.theguardian.com/australia-news/2017/mar/09/labor-frontbencher-kate-ellis-to-quit-politics-at-next-election>>.

14 'Senators and Members', *Parliament of Australia* (Web Page) <[https://www.aph.gov.au/Senators\\_and\\_Members](https://www.aph.gov.au/Senators_and_Members)>.

15 Ibid.

women voters are likely to have less confidence in the system of representative and responsible government than male voters, in ways that ultimately undermine and corrode public trust in democracy. When Australian parliaments do not uphold the minimum standards of workplace conduct and gender equality, “trust is lost in the institution of Parliament”.<sup>16</sup>

Third, gender equality matters for substantive equality of opportunity. Public office is an important, well-remunerated and rewarding job. There are other jobs that are better-paid and that have more favourable terms and conditions. However, the responsibility and privilege of serving the public is one that is enormously rewarding for many. Therefore, ensuring that female-identifying citizens have equal access to these opportunities is critical to ensuring a fair and equal society.

Equality of opportunity, however, depends on substantive, not just formal, equality of opportunity. That means the provision of opportunity in ways that are structured to recognise relevant differences. It means providing a wheelchair ramp to the entry to Parliament for those with the lived experience of physical disability. And it means providing appropriate accommodation for care responsibilities for those who have them in our society, which continues – and is likely to continue in the near term – to be female-identifying people.

It is, of course, important to note that care and care responsibilities are not the only obstacles to gender equality in Parliament. Another key challenge, highlighted by recent events, is to create a safe workplace free of sexual assault and harassment. On 15 February 2021, Brittany Higgins announced that she had been sexually assaulted by a fellow male staffer in the ministerial office of Senator Linda Reynolds. And it is clear that this incident is far from isolated.

The allegations made by Ms Higgins prompted the government to engage Sex and Discrimination Commissioner Kate Jenkins to undertake an Independent Review into Commonwealth Parliamentary Workplaces.<sup>17</sup> In July 2021, the federal Parliament announced that it would offer politicians and staffers optional sexual assault training.<sup>18</sup> The Government has announced that training will be compulsory for Cabinet Ministers.<sup>19</sup> Yet it is clear that more is needed to achieve a truly safe workplace for female-identifying MPs and staffers.

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16 Jenkins Report (n 3) 12.

17 In July, an interim report was issued: Australian Human Rights Commission, *Independent Review into Commonwealth Parliamentary Workplaces: Progress Update* (19 July 2021) <[https://humanrights.gov.au/sites/default/files/document/publication/ahrc\\_progress\\_update\\_independent\\_review\\_cpw\\_2021.pdf](https://humanrights.gov.au/sites/default/files/document/publication/ahrc_progress_update_independent_review_cpw_2021.pdf)>. The full report is expected in November 2021.

18 Daniel Ziffer, ‘Federal Parliament’s Sexual Harassment Training for Politicians Will be One Hour and Optional’, *ABC News* (online, 15 July 2021) <<https://www.abc.net.au/news/2021-07-15/parliamentary-sexual-harassment-workplace-training-optional/100293784>>.

19 Steven Schubert, ‘Ministers Will Be Made to Attend Sexual Harassment Training and Threatened with the Sack if They Don’t’, *ABC News* (online, 26 July 2021) <<https://www.abc.net.au/news/2021-07-26/parliamentary-workplace-review-brittany-higgins-training-safety/100323610>>.

The Jenkins Report was handed down on 30 November 2021, with one in three parliamentary staffers who had responded to the Independent Review into Commonwealth Parliamentary Workplaces saying that they had been sexually harassed within the workplace.<sup>20</sup> Specifically for politicians, 63 percent of female-identifying parliamentarians identified that they had experienced sexual harassment, in contrast to 24 percent of male parliamentarians.<sup>21</sup> Moreover, the Jenkins Report noted that ‘gender inequality is ... a key driver of bullying, sexual harassment and sexual assault’ within federal Parliament where ‘institutional structures, processes and practices ... devalue women and consequently foster gendered misconduct’.<sup>22</sup>

As acknowledged above, the proposed reforms should not be considered a panacea capable of eliminating all gender inequities that female-identifying politicians experience in Parliament. Nevertheless, it is our belief that these reforms would engender a broader institutional and cultural shift which would permit female-identifying politicians to balance their parliamentary and caring obligations and mitigate structural inequalities.

### III The Solutions

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In this part, we outline proposals for Parliament to develop policies designed to make it more family- and care-friendly. Some also have the capacity to advance the goal of making Parliament a safer workplace, though we acknowledge the recommendations of the Jenkins Report about other measures for achieving this goal, including a more effective system of complaints handling in Parliament in relation to allegations of harassment, assault and bullying.

#### A A Non-Strangers Policy

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Parliamentary Standing Orders have traditionally prevented ‘strangers’ or ‘visitors’ from entering the chambers when each house is sitting.<sup>23</sup> Historically, this was intended to ensure the smooth operation of the Parliament by preventing distraction and disorderly conduct and to allow for information to be shared privately. On various

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20 Jenkins Report (n 3) 110; See also Katina Curtis, ‘One in three parliamentary staffers say they’ve been sexually harassed’, *Sydney Morning Herald* (online 30 November 2021) <<https://www.smh.com.au/politics/federal/jenkins-review-into-workplace-culture-of-parliament-released-20211130-p59ded.html>>.

21 Jenkins Report (n 3) 112.

22 Ibid 15.

23 See *House of Representatives Standing Orders* (Standing Orders, Commonwealth Parliament of Australia, Department of the House of Representatives, 19 September 2019) cl 257; *Senate Standing Orders* (Standing Orders, Commonwealth Parliament of Australia, Department of the Senate, July 2021) cl 175.

occasions, children and infants have been captured by such rules and ordered by the Presiding Member of each chamber to leave.<sup>24</sup>

The Standing Orders of the House of Representatives have recently been amended to allow for 'an infant being cared for by a Member' to be present in the chamber without contravening these prohibitions.<sup>25</sup> They also allow nursing mothers to vote by proxy in most circumstances.<sup>26</sup> The Senate now allows for automatic admission of an infant being breastfed by a Senator.<sup>27</sup> In 2019, Senator Larissa Waters became the first federal parliamentarian to breastfeed their child during a sitting.<sup>28</sup> However, whether an infant can be 'briefly' admitted to the chamber to be cared for by a Senator remains subject to the discretion of the President.<sup>29</sup> While these changes are a step in the right direction, they should go further.

The Standing Orders of each chamber should be amended to allow children in Parliament in a wider range of circumstances. They should let MPs meet the last-minute call to vote while undertaking their caring responsibilities and allow them to care for their children in emergencies. This would bring the Parliament in line with many other Australian workplaces which understand the benefits of ensuring that their employees are able to appropriately balance their caregiving responsibilities and work, including in an emergency.<sup>30</sup>

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24 See, eg, Sabra Lane, 'Toddler Ejected: Brown Slams "archaic" Senate Rules', *ABC News* (online, 19 June 2009) <<https://www.abc.net.au/news/2009-06-19/toddler-ejected-brown-slams-archaic-senate-rules/1325130>>.

25 *House of Representatives Standing Orders* (n 23) cl 257(d). Similar incidents have also occurred overseas: See Kagweni Micheni, 'Kenyan MP Sent Out of Chamber for Bringing her Baby', *CNN* (online, 7 August 2019) <<https://edition.cnn.com/2019/08/07/africa/kenya-mp-sent-out-of-chamber-baby-intl/index.html>>; Justin McCurry, 'Japanese Politicians Force Colleague with Baby to Leave Chamber', *The Guardian* (online, 24 November 2017) <<https://www.theguardian.com/world/2017/nov/24/japanese-politicians-force-colleague-baby-leave-chamber-women>>.

26 *Ibid* 'Special provisions for nursing mothers'.

27 *Senate Standing Orders* (n 23) cl 175(3).

28 Belinda Merhab, 'History Made as Larissa Waters Breastfeeds Baby Daughter in Senate', *The Sydney Morning Herald* (online, 9 May 2017) <<https://www.smh.com.au/politics/federal/history-made-as-larissa-waters-breastfeeds-baby-daughter-in-senate-20170509-gw0xw9.html>>.

29 *Senate Standing Orders* (n 23) cl 175(3).

30 See Amanda M Jantzer, Jenn Anderson and Rebecca A Kuehl, 'Breastfeeding Support in the Workplace: The Relationships Among Breastfeeding Support, Work-Life Balance, and Job Satisfaction' (2018) 34(2) *Journal of Human Lactation* 379.

## **B** Sitting Hours & Weeks

### **1** Sitting Hours

Parliament is well-known for its unpredictable, often late, sitting hours. The Standing Orders of both the House of Representatives and Senate set out the times in which each chamber will meet (for example, the Senate sitting hours begin on Mondays at 10am, Tuesdays at 12pm, and Wednesdays and Thursdays at 9.30am).<sup>31</sup> General adjournment times are similarly irregular, with sittings frequently stretching on after 8pm.<sup>32</sup> The average length of sitting days from 1 January 2019 to the present is 9 hours and 48 minutes, well beyond the average hours expected in the community.<sup>33</sup> While politicians may not be required to be present in the relevant parliamentary chamber for the entire duration of the sitting day, they find themselves unable to leave the premises of Parliament House in case a vote is called, and they are required.

This is not unusual for Parliaments within Australia,<sup>34</sup> or globally.<sup>35</sup> But it can make it extremely difficult for MPs to balance their caring responsibilities, most importantly by arranging regular and predictable child-care. While some politicians or political staffers find themselves with supportive offices and flexible work arrangements, this is far from the norm.<sup>36</sup> Even where informal arrangements may exist, the absence of a uniform and formal policy will continue to act as a disincentive for female-identifying politicians and staffers seeking to work in Parliament House.

To address this, we recommend that the Standing Orders of each chamber should be amended to ensure that sitting hours correspond to normal working hours expected amongst the community, when regular child-care is available – e.g., from 8.30am–6pm.



31 *House of Representatives Standing Orders* (n 23) cl 29(b); *Senate Standing Orders* (n 23) cl 55(1).

32 *Ibid.*

33 Parliament of Australia, 'Hours of Meeting', *Senate StatsNet* (Web Page, 26 August 2021) <[https://www.aph.gov.au/Parliamentary\\_Business/Statistics/Senate\\_StatsNet#/hours-of-meeting?-from=2019-01-01&to=2021-12-31](https://www.aph.gov.au/Parliamentary_Business/Statistics/Senate_StatsNet#/hours-of-meeting?-from=2019-01-01&to=2021-12-31)>.

34 See, eg, 'A Sitting Day in the Parliament', *Parliament of New South Wales* (Web Page, 2021) <<https://www.parliament.nsw.gov.au/about/Pages/A-Sitting-Day-in-the-Parliament.aspx>>.

35 Sonia Palmieri, *Gender Sensitive Parliaments: A Global Review of Good Practice* (Report No 65, Inter-Parliamentary Unions, 2011) 91.

36 Jenkins Report (n 3) 87.

There is precedent for this within Australia: the Australian Capital Territory Legislative Assembly, for example, has undertaken a deliberate attempt to establish more family-friendly sitting hours, with sittings generally beginning at 10am and adjourning by 7pm.<sup>37</sup> The Queensland Legislative Assembly currently sits from 9.30am until either 6.30pm or 7.30pm.<sup>38</sup> The Brisbane City Council has similarly shortened its lunch hours to conclude sittings between 6.30pm and 7.30pm.<sup>39</sup>

There is also precedent for it globally: the Danish Parliament, for instance, does not allow voting after 7pm on its sitting days.<sup>40</sup>

While not all MPs will benefit from this (as their families may not be with them in Canberra, for example, or they may not have partners and/or children), this change would send an important signal to MPs (and those thinking of nominating) that it is possible to combine work in Parliament with caring responsibilities. It would also have important flow-on effects for parliamentary staffers based in Canberra with family responsibilities.

These changes also have additional potential benefits: they could improve the quality of legislative debate and decision making by MPs by avoiding errors due to lack of sleep or late-night decision making. And they could help lower the likelihood that sexual harassment or assault will occur within Parliament by reducing the perception that Parliament does not adhere to ordinary workplace norms and expectations.

When Parliament sits late into the evening, politicians and staffers are likely to spend this time barricaded in isolated parliamentary offices, with few other people on site to witness what occurs behind closed doors. Female-identifying politicians and staffers are therefore more vulnerable to improper conduct when there are fewer people present in parliamentary offices, or even in the building. We acknowledge that misbehaviour may still arise during 'daylight' sitting hours, however, on balance this is less likely to occur or be seen as acceptable in ordinary business hours, and to be unnoticed by co-workers or other potential witnesses. Second, changing sitting hours to align with business hours diminishes the likelihood that large quantities of alcohol will be consumed in Parliament House,<sup>41</sup> in ways that can both contribute to improved decision-making and reduce risk factors for sexual assault and harassment.<sup>42</sup>

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37 *Standing Orders and Other Orders of the Assembly* (Standing Orders, Legislative Assembly for the Australian Capital Territory, 30 March 2021) cls 27, 34.

38 *Sessional Orders of the Legislative Assembly: 57th Parliament* (Sessional Orders, Parliament of Queensland: Legislative Assembly, 26 November 2020) cls 1(b)–(c).

39 Lucy Stone, 'Brisbane City Council to Switch to Family-Friendly Sitting Hours', *ABC News* (online, 5 May 2021) <<https://www.abc.net.au/news/2021-05-06/brisbane-city-council-family-friendly-sitting-hours/100118120>>.

40 Palmieri (n 35) 92.

41 Caterina Giorgi, 'Parliament Has a Drinking Problem so It's Time to Consider a Booze Ban', *Sydney Morning Herald* (online, 31 March 2021) <<https://www.smh.com.au/politics/federal/parliament-has-a-drinking-problem-so-it-s-time-to-consider-a-booze-ban-20210331-p57fhv.html>>.

42 The Australian Human Rights Commission's *National Inquiry into Sexual Harassment at Work* identifies that alcohol is a 'factor contributing to sexual harassment, sexual assault or other inappropriate

We acknowledge that when parliamentary sitting hours often extend long into the evening this may reflect that Parliament has urgent business to attend to. To this end, explicitly limiting the sitting hours to match business hours *may* lessen the flexibility of Parliament to meet unique circumstances or emergencies which require immediate attention. However, drawing upon the precedents established in the ACT Parliament and the Queensland Parliament, explicit caveats (subject to prescribed conditions) may be written into the Standing Orders to remedy this concern.<sup>43</sup>

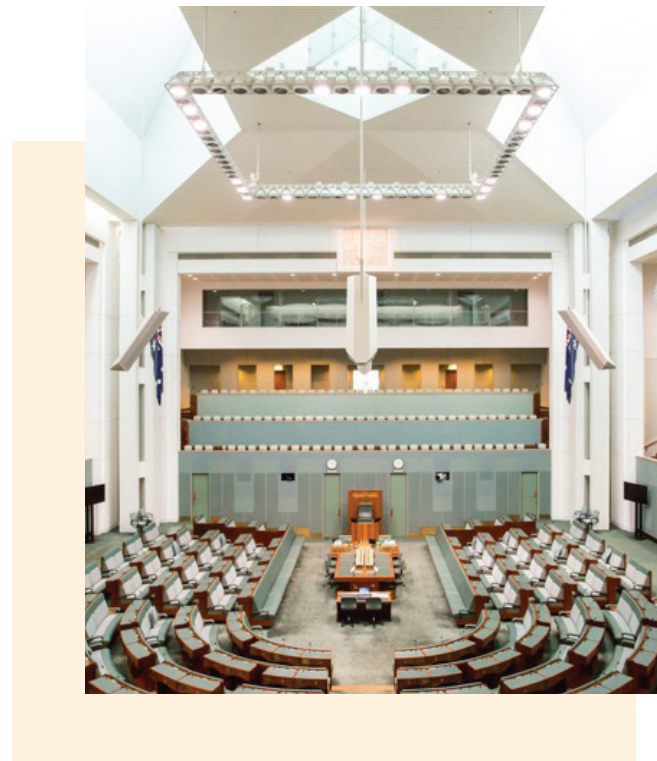
## 2 School Holidays

The Standing Orders of the House of Representatives state that it will, unless otherwise ordered, meet in accordance with the program of sittings for that year as agreed by the House.<sup>44</sup> In practice, such programs specify that the House will meet from Monday to Thursday. The Standing Orders of the Senate state that it will meet from Monday to Thursday.<sup>45</sup>

In practice, each chamber has also tended to agree to sitting weeks which do not overlap with school holiday periods. Over the past three years, the Parliament only sat on ten days which overlapped with the school holiday period of a state or territory. Similar practical alignment occurs in the legislatures of New Zealand, Sweden, Norway and South Africa, among others.

However, there remains no guarantee that they do so, and this uncertainty may discourage carers from pursuing a career in the Parliament. Many parents of older children may be able to leave them to attend sitting weeks in Canberra while the children are at school, but do so on the understanding that they will be able to spend time with them during school holiday periods. Without the ability to guarantee this, parents of older children may also be deterred from running for office.

We therefore suggest that both chambers should amend their Standing Orders to codify existing de facto practice around school holidays, and guarantee that parliamentary



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behaviour' in workplaces; Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 29 January 2020) 159.

43 For example, if a vote is in progress at the time of automatic adjournment in the ACT Legislative Assembly, then 'that vote, and any vote consequent upon that vote, shall be completed and the result announced': See *Standing Orders and Other Orders of the Assembly* (Standing Orders, Legislative Assembly for the Australian Capital Territory, 30 March 2021) cl 34(a).

44 *House of Representatives Standing Orders* (n 23) cl 29(a).

45 *Senate: Standing Orders* (n 23) cl 55(1).

recess weeks align with school holiday periods in all states and territories. Such an amendment would not alter the actual practice of the Parliament substantially but would provide certainty to current and future parliamentarians about whether they will be able to balance their caring responsibilities outside of school terms.<sup>46</sup>

Such an amendment could also require that parliamentary sitting days must not overlap with school holidays, or alternatively, that in setting sitting weeks for the upcoming year, regard must be had to any such overlap. The second approach is currently utilised by the Scottish Parliament.<sup>47</sup>

## **C Parental Leave**

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As representatives elected directly by their constituents, the employment status of parliamentarians is unique. Currently, there is no entitlement for members to receive parental leave. Instead, any leave sought must be approved by the House of Representatives or the Senate itself.

The Standing Orders of each chamber require that members submit a 'motion after notice, stating the cause and period of absence.'<sup>48</sup> There are no guidelines for the amount of time which members are permitted or suggested to take.

It is also unclear whether mothers and fathers are encouraged to take different periods of time. For example, the House of Representatives approved parental leave for both Tanya Plibersek and Chris Bowen on the same day in 2005, the former for five weeks, the latter for one.<sup>49</sup>

Even though, in practice, neither chamber is likely to refuse leave to parents, the uncertainty in the current process remains stressful for those seeking leave. The absence of any formalised policy may also discourage female-identifying people who have, or are considering having, children from even putting their hand up to run for Parliament in the first place.

We suggest that the Standing Orders of both the House and Senate should be amended to make clear that a base entitlement of parental leave should be available to all parents (both mothers and fathers, of biological and adopted children) which need not require the assent of the entire chamber, and which, in the case of opposition or government members, automatically triggers a requirement for the other side of politics to provide a pair.

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<sup>46</sup> This proposal for reform was similarly recommended by the Jenkins Report, see Jenkins Report (n 3) 269, 276-7.

<sup>47</sup> *Standing Orders* (Standing Orders, Scottish Parliament, 30 June 2021) cl 2.3(2).

<sup>48</sup> *House of Representatives Standing Orders* (n 23) cl 26; *Senate Standing Orders* (n 23) cl 47.

<sup>49</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 8 February 2005, 45 (Kim Beazley, Leader of the Opposition).



As a useful precedent, the Tasmanian House of Assembly amended its Standing Orders in 2016 to automatically allow members 12 weeks maternity leave without a vote of the House.<sup>50</sup> We suggest this same leave should be extended to any primary caregiver, with secondary caregivers (of any sex or gender) entitled to up to 2 weeks parental leave. Individual parliamentarians could also seek to extend their leave beyond this period, with the approval of the relevant chamber.

This is in line with entitlements that apply to other Australian workers.<sup>51</sup> There are also a range of global precedents for changes of this kind: the Canadian House of Commons introduced regulations formally entitling its members to paid parental leave in 2019, whereby members, regardless of their gender identity, can take up to 12 months of paid parental leave. Prior to this, members were entitled to 21 days off and would incur a financial penalty for failure to attend to their duties after this period.<sup>52</sup> The United Kingdom House of Commons recently passed the *Ministerial and other Maternity Allowances Act 2021*, which introduced formal maternity leave entitlements for Ministers, where previously they were forced to resign from their portfolio. The Act does not extend to backbenchers or male Ministers with parenting responsibilities, however.<sup>53</sup>

Of course, not all MPs would necessarily choose to take this leave, and Ministers would need to arrange their leave in consultation with Cabinet colleagues, to allow their portfolio to be temporarily re-allocated. But they would provide an important entitlement to leave, which could over time help shift cultural norms and expectations in this as well as the broader parliamentary context.

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50 *House of Assembly Standing & Sessional Orders and Rules*, (Standing Orders, Parliament of Tasmania, 22 June 2021) cl 36(2).

51 See *Paid Parental Leave Act 2010* (Cth) ss 11(5), 115AE(5).

52 *Parliament of Canada Act*, RSC 1985, c P-1, s 59.1. See also Teresa Wright, 'House of Commons Unanimously Adopts New Parental-Leave Policy for MPs', *Canadian Broadcasting Corporation* (online, 14 June 2019) <<https://www.cbc.ca/news/politics/parental-leave-commons-1.5175413>>.

53 *Ministerial and other Maternity Allowances Act 2021* (UK). See also Jessica Elgot, 'MPs Pass "long Overdue" Bill for Ministers' Paid Maternity Leave', *The Guardian* (online, 12 February 2021) <<https://www.theguardian.com/politics/2021/feb/11/mps-pass-long-overdue-bill-for-ministers-paid-maternity-leave>>.

## D Child Care and Remote Learning in Parliament

### 1 Child Care

In 2009, the Parliament opened its own on-site child care facility in what was previously a staff bar.<sup>54</sup> The facility can be used by Members and all other staff in the building. It is currently operated by Communities@Work, which offers 36 places to children from birth to schooling age and has the capacity to extend its operating hours during sitting weeks.<sup>55</sup> Former MP Kate Ellis stated that it 'was an absolute godsend to me to have high-quality early education and care just metres from the parliamentary chamber.'<sup>56</sup>

However, the permanency of the facility has often been jeopardised. In 2014, the then-operator of the facility, Anglicare, notified parents of the centre's imminent closure due to 'financial difficulties' which the Department of Parliamentary Services had failed to address.<sup>57</sup> Though the operating contract was ultimately extended, the episode left parents uncertain about the facility's long-term future if spots at the facility were not always filled.<sup>58</sup> We thus suggest that the government should commit to guaranteeing funding for a childcare facility at Parliament House for at least the next 10 years.<sup>59</sup>

Various legislatures around the world have well-established childcare facilities which recognise the need to support politicians (and staff) with caring responsibilities. The European Parliament has crèches and family rooms in Brussels, Luxembourg and Strasbourg. The largest, the Wayenberg Crèche in Brussels, has 230 places 'reserved for the children of members, officials, accredited parliamentary assistants and other servants of the European Parliament.'<sup>60</sup> Its fee structure is individualised, based on the

The impetus for encouraging the participation of women with lived experiences as carers is significantly more important than whether [a Parliament House childcare] facility runs at a loss.

54 Mark Rodrigues, *Children in the Parliamentary Chambers* (Research Paper No 9, Parliamentary Library, 19 November 2009).

55 'Capital Hill Early Childhood Centre', *Communities@Work* (Web Page) <<https://www.commsatwork.org/services/children/capital-hill-child-care-education-centre/>>.

56 Kate Ellis, *Sex, Lies and Question Time: Why the Successes and Struggles of Women in Australia's Parliament Matter to Us All* (Hardie Grant Books, 2021) 185.

57 Tegan Osborne, 'Parliament House Childcare Centre's Future Secured until 2015', *ABC News* (online, 25 July 2014) <<https://www.abc.net.au/news/2014-07-25/anglicare-to-run-parliament-house-childcare-centre-until-2015/5624842>>.

58 Ibid.

59 The Jenkins Report has similarly encouraged a review of 'options for more flexible childcare options, including emergency childcare and flexible placements in the childcare centre, with consideration to its operating hours, and the feasibility of a second site': Jenkins Report (n 3) 127.

60 'Welcome to Brussels EP Crèches', *European Parliament Crèches Services* (Web Page) <<https://creche.europarl.europa.eu/home/bruxelles.html>>.

net income and number of children in each family, rather than the demand for places.<sup>61</sup> On-site childcare facilities, family rooms and playgrounds are also found in the Parliaments of the United Kingdom, Sweden, Norway and New Zealand.<sup>62</sup>

The availability of childcare at Parliament House should not be treated like facilities in other workplaces as wholly demand-driven. It should be fully funded regardless of whether each and every space is filled or whether the facility is commercially self-sustaining. It should send a signal of openness to all aspiring parliamentarians (and staff) that those with caring responsibilities are welcome.

The impetus for encouraging the participation of women with lived experiences as carers is significantly more important than whether the facility runs at a loss. Given the vast array of privileges afforded to parliamentarians which involve public expenditure – including ‘a snooker room, a pool, a gym, a dining room and many other facilities’ in Parliament House itself<sup>63</sup> – the childcare facility should not have to justify its own necessity simply on financial grounds.

**Parliament House should not only be welcoming to those caring for infants and young children. It should also allow parliamentarians to combine their role in Parliament with the care of primary- and secondary-school aged children.**

## **2 Remote-Learning Facilities**

Parliament House should not only be welcoming to those caring for infants and young children. It should also allow parliamentarians to combine their role in Parliament with the care of primary- and secondary-school aged children.

Older children and teenagers can often require just as much parental support as younger children during such crucial points in their development. And hence, it is unrealistic to treat the only child-care challenge for MPs as one relating to pre-school children. Indeed, as we note above, several high-profile female MPs – including Kelly O’Dwyer and Kate Ellis – quit federal politics in order to spend more time with their *school-age* children.

Addressing this problem is not easy. But it is also essential to true gender parity in Parliament – especially in more senior roles, such as Cabinet. This also requires a creative response from Parliament, in the form of investment in a **part-time K-12 remote learning facility** open during sitting weeks and hours.

61 ‘FAQ’, *European Parliament Crèches Services* (Web Page) <<https://creche.europarl.europa.eu/home/bruxelles/faq.html>>.

62 Michael Potter, ‘The Swedish General Election 2014 and the Representation of Women’ (Research Paper NIAR 496-14 No 93/14, Northern Ireland Assembly Research and Information Service, 1 October 2014) 15; Peter Allen, David Cutts and Madelaine Winn, ‘Understanding Legislator Experiences of Family-Friendly Working Practices in Political Institutions’ (2016) 12(1) *Politics and Gender* 549, 552; Sonia Palmieri and Kerryn Baker, ‘Localising Global Norms: The Case of Family-Friendly Parliaments’ (2020) *Parliamentary Affairs* (advance).

63 Commonwealth, *Parliamentary Debates*, House of Representatives, 24 June 2008, 5759.

COVID-19 has taught us that various forms of remote, flexible learning are possible for urban, as well as rural and remote, students, and that while many students find this challenging, others thrive in this learning environment. MPs should therefore be offered the possibility of having their school-age children with them in Canberra during sitting weeks, and attending some form of remote learning facility within the Parliament, appropriately staffed and resourced by the Commonwealth.

Of course, most MPs will not choose this model for their children: it would likely involve students attending two schools (one in their home state or territory, and one in Canberra, via distance or remote learning), and this would entail challenges for both teachers and students that would not make it appealing to all children and families. But offering the option is critical to increasing the scope for those with caring responsibilities to enter and remain in Parliament, including single parents and parents of children with mental health challenges and other distinctive social and emotional needs.

This also means the Commonwealth must fund appropriate infrastructure and staffing to support such a facility and work with states and territories to offer appropriate support and resourcing for teachers required to interface with this system.

**We recommend that the Standing Orders of both houses be amended to encourage virtual attendance at committee hearings, and other Parliamentary hearings, when Parliament is not in session.**

## **E Virtual Hearings**

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For most of Parliament's history, members have always been required to be present in Canberra during sitting weeks. The Standing Orders of both chambers currently allow for members to appear via audio-visual technologies ('AV') such as Zoom, so long as those in attendance can speak and hear one another contemporaneously.<sup>64</sup> The basis for this introduction was to allow members on pregnancy and parental leave to continue fulfilling their duties from home where possible. In practice, the utilisation of such technologies has been seen as an exception rather than a general rule.

The COVID-19 pandemic has drastically altered the utilisation of these technologies, but as restrictions have eased, the procedures and culture at Parliament House have continued to expect constant attendance in Canberra. In the first half of 2020, the difficulties associated with travel to Canberra were compounded by a requirement that those who arrived were required to quarantine there for two weeks followed by a further two weeks upon returning to their electorates.<sup>65</sup> Kate Thwaites, one of four

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<sup>64</sup> *House of Representatives Standing Orders* (n 23) cl 235(b); *Senate: Standing Orders* (n 23) cl 30(a).

<sup>65</sup> 'Victorian Politicians Wanting to Travel to Canberra for Parliamentary Sittings Face Two Weeks in Quarantine', *ABC News* (online, 6 August 2020) <<https://www.abc.net.au/news/2020-08-06/victorian-politicians-face-coronavirus-quarantine-parliament/125293700>>.

pregnant parliamentarians at the time, remarked that '[t]he current restrictions mean that for those of us with young families or with medical issues, it is really hard to get to Canberra to represent our constituencies.'<sup>66</sup> The Parliament eventually adapted to allow Members subject to lockdowns to complete their parliamentary duties via AV from home (including 'attending' sittings in the chambers) if it was 'essentially impossible' for them to physically attend.<sup>67</sup>

We suggest, however, that options for virtual attendance should be retained and expanded beyond the current COVID context. Specifically, we recommend that the Standing Orders of both houses be amended to **encourage virtual attendance at committee hearings**, and other Parliamentary hearings, when Parliament is not in session.

Given that remote participation in committee hearings is already prevalent, there must simply be greater encouragement for its use amongst party leaders and committee chairs. The expectation that every member ought to work only in Canberra all of the time should be discarded. This would bring the Parliament in line with many other modern sectors with flexible working arrangements.<sup>68</sup> And it would offer especially valuable forms of flexibility to those MPs with care responsibilities, or those with care responsibilities who may be considering running for Parliament.

Remote participation would also have its own unique benefits. Members would be free to spend more time with their constituents, rather than spending excessive time and taxpayer money travelling to Canberra, better allowing them 'to represent the interests of people who have too often been ignored by politics.'<sup>69</sup> Committees would be able to meet, hear evidence and make decisions quickly, and their meetings could be broadcast to a wide audience to allow greater engagement with their work.

Virtual participation in Parliamentary *sittings* raises greater democratic and constitutional complexities. Throughout the pandemic, entire legislatures (including at some points, the Australian Parliament)<sup>70</sup> have functioned online through AV

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66 Fergus Hunter and Toby Crockford, 'Pregnant MPs Warn They Are Being Shut out of Inflexible Parliament', *Sydney Morning Herald* (online, 16 August 2020) <<https://www.smh.com.au/politics/federal/pregnant-mps-warn-they-are-being-shut-out-of-inflexible-parliament-20200815-p55m2c.html>>.

67 Christian Porter and Tony Burke, 'Agreement for Members to Contribute Remotely to Parliamentary Proceedings' (Agreement, House of Representatives, 20 August 2020) <<https://www.attorneygeneral.gov.au/sites/default/files/2020-08/20200820-Remote-parliament-agreement.pdf>>.

68 See generally Heejung Chung et al, 'Covid-19, Flexible Working, and Implications for Gender Equality in the United Kingdom' (2021) 35(2) *Gender & Society* 218.

69 Richard Power Sayeed, 'The "Zoom Parliament" Could Inspire a More Democratic Commons', *The Guardian* (online, 27 April 2020) <<https://www.theguardian.com/commentisfree/2020/apr/26/virtual-parliament-commons-lockdown-remote-working-diverse-mps>>.

70 See Porter and Burke (n 67). See also Sarah Moulds, 'As the First "Remote" Sitting Starts in Canberra, Virtual Parliaments Should be the New Norm' *ABC News* (online, 24 August 2020) <<https://www.abc.net.au/news/2020-08-24/australia-virtual-parliament-sitting-new-norm-covid-ban-aid/12588432>>.

technology and even specialist voting applications.<sup>71</sup> And the benefits of such a scheme for those with caring responsibilities, like the above recommendations, would be greatly significant in providing flexibility. But there also remains significant political support for the continuation of ‘in-person, face-to-face parliament’<sup>72</sup> and, absent a public health crisis or necessity, a fully virtual Parliament might be seen to raise constitutional issues.

We therefore suggest that, at most, any amended Standing Orders should allow a Member to apply to the Speaker or President for the right to ‘attend’ sittings, based on exceptional health or family circumstances, and this issue should be revisited after an appropriate period of time.

## **IV State-based Reforms**

In many respects, Australian state and territory parliaments and local councils are ahead of the Commonwealth Parliament in providing for an inclusive, family-friendly approach. Indeed, several of our recommended reforms have already been implemented by state parliaments and draw on those changes as precedent.

For instance, the NSW Parliament has had a dedicated ‘Parents Room’ since 2017 which ‘features a separated sleeping area with cots and change tables, along with a larger play area featuring children’s toys and book.’<sup>73</sup> Members and staff utilising the room have access to kitchen facilities and a workstation to complete their work while caring for their children.<sup>74</sup>

Both chambers allow for committee hearings to be attended remotely by members, but much like the federal Parliament, it is unclear whether such participation is encouraged widely.<sup>75</sup>

In Victoria, members are permitted to attend and participate in committee meetings

71 For example, the National Congress of Brazil enabled remote participation through use of its own app, InfolEG, which enables lawmakers to appear in plenary sittings and securely vote, and citizens to watch sessions: ‘Preserving parliament’s functionality during the COVID-19 pandemic: Brazil’s experience’ *Inter-Parliamentary Union* (Web Page, 20 July 2020) <<https://www.ipu.org/innovation-tracker/story/preserving-parliaments-functionality-during-covid-19-pandemic-brazils-experience>>.

72 Ellis (n 56) 186.

73 Laura Ismay, ‘Women in Parliament’ (Briefing Paper No 3, NSW Parliamentary Research Service, 2018) 53.

74 *Ibid.*

75 *Standing Orders* (Standing Orders, Parliament of New South Wales, Legislative Assembly, 13 April 2016) cl 295(2) (*NSW Legislative Assembly Standing Orders*); *Committees—Sessional and Temporary Orders, Resolutions and Membership* (Sessional Orders, Parliament of New South Wales, Legislative Council, 25 November 2021) cl 214.

remotely,<sup>76</sup> providing they ‘give reasonable notice to the Chair and secretariat of the committee’.<sup>77</sup> In Queensland, parliamentary committee members are entitled to participate in meetings ‘by way of telephone or video conference or other electronic means’.<sup>78</sup> In Tasmania, the Legislative Council allows for committee members to participate remotely, though the position is less clear for the House of Assembly.

And in Western Australia, in 2021, the Parliament opened a ‘Family Room’ for the use of members and staff with children. The room ‘is designed for a range of ages with various toys, Wi-Fi, microwave, fridge, TV and study area incorporated into the space and is centrally located within Parliament House’.<sup>79</sup> Further, committee members in both chambers have the capacity to participate via remote technology.<sup>80</sup>

There are also ways in which our recommendations remain relevant, however, as *proposals for reform at a state level* – especially in connecting with the admission of children, the regulation of sitting hours and guaranteed provision of child care. We do not explicitly canvass the position in the ACT or Northern Territory, but again our recommendations have relevance for territory parliaments.

## **A New South Wales**

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The rules around the entry of ‘visitors’ to the NSW Parliament largely reflect those of the Commonwealth Parliament. The Legislative Assembly has no specific rules relating to admission of children, with its Standing Orders stating that ‘[a] Member shall not bring a visitor into any part of the building exclusively set aside for the use of Members’.<sup>81</sup> The current Sessional Orders of the Legislative Council allow for the admission of a child aged under four being cared for by a member to sittings, and for members caring for children who are seated in the gallery to vote in divisions (at the President’s discretion).<sup>82</sup> The Standing Orders of both chambers should align with

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76 *Standing Orders* (Standing Orders, Parliament of Victoria, Legislative Assembly, August 2021) cl 209 (‘Victorian Legislative Assembly Standing Orders’); *Standing Orders* (Standing Orders, Parliament of Victoria, Legislative Council, 2020) cl 23.16(5) (‘Victorian Legislative Council Standing Orders’).

77 *Sessional Orders 59<sup>th</sup> Parliament* (Sessional Orders, Parliament of Victoria, Legislative Council, 25 June 2021) cl 28(3).

78 *Ibid* cl 201(4).

79 ‘Parliament of Western Australia Celebrates Opening of New Family Room’, *Parliament of Western Australia* (Web Page, 11 March 2021) <<https://parliament.wa.gov.au/482583EA0000BFAF/0/D55A344AF20F291A48258695001BA120>>.

80 *Standing Orders* (Standing Orders, Parliament of Western Australia, Legislative Assembly, 29 November 2017) cl 259(2) (‘Western Australia Legislative Assembly Standing Orders’); *Standing Orders* (Standing Orders, Parliament of Western Australia, Legislative Council, September 2021) cl 162 (‘Western Australia Legislative Council Standing Orders’).

81 *NSW Legislative Assembly Standing Orders* (n 75) cl 261.

82 *Sessional Orders, Temporary Orders, Resolutions of Continuing Effect and Office Holders* (Sessional Orders, Parliament of New South Wales, Legislative Council) cls 41–42 (‘NSW Legislative Council Sessional Orders’).

the above proposal so that children of any age are allowed into the Parliament in more circumstances.

The NSW Parliament, like its Commonwealth counterpart, often sits late into the night, preventing parliamentarians from balancing their caring needs with certainty. Its website states that '[s]ittings usually end around 10.30 in the evening but will sometimes go beyond this into the early hours of the next day (particularly in the Legislative Council).'<sup>83</sup> Debates are routinely scheduled to begin in the late afternoon, and no time is specified for when an adjournment must be called.<sup>84</sup> Some steps in the right direction have been made, with the current Legislative Council's Sessional Orders requiring that debate be interrupted at 10pm so that the chamber can consider whether to adjourn.<sup>85</sup> However, this requirement is inadequate for ensuring that members will have the capacity to fulfil their caring obligations, and thus discourages many carers from considering running for office.

Sitting weeks in the NSW Parliament also align with school terms in practice. Over the past three years, both the Legislative Assembly and Legislative Council were in recess during school holiday periods.<sup>86</sup> However, neither chamber's Standing Orders or Sessional Orders *require* that such an alignment take place, illustrating the need for the above reform.

The Standing Orders of each chamber do not provide a set minimum period of parental leave for representatives. As above, each chamber must vote on a motion to grant an individual member leave, which the member will automatically forfeit by attending the chamber or a committee.<sup>87</sup>

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83 'A Sitting Day in the Parliament', *Parliament of New South Wales* (Web Page) <<https://www.parliament.nsw.gov.au/about/Pages/A-Sitting-Day-in-the-Parliament.aspx>>.

84 See 'Interactive Sitting Day Schedule', *Parliament of New South Wales* (Web Page) <<https://www.parliament.nsw.gov.au/la/houseprocedures/Pages/Interactive-Sitting-Day-Schedule.aspx>>; 'Daily Program', *Parliament of New South Wales* (Web Page) <<https://www.parliament.nsw.gov.au/lc/papers/dailyprogram/Pages/home.aspx>>; NSW *Legislative Assembly Standing Orders* (n 75) cl 46; *Standing Rules and Orders* (Standing Orders, Parliament of New South Wales, Legislative Council, 5 May 2004) cls 31–32 ('NSW Legislative Council Standing Orders').

85 *NSW Legislative Council Sessional Orders* (n 82) cl 7.

86 See 'Sitting Day Calendar (2021)', *Parliament of New South Wales* (Web Page) <<https://www.parliament.nsw.gov.au/Pages/sitting-day-calendar.aspx>>; 'Sitting Day Calendar (2020)', *Parliament of New South Wales* (Web Page) <<https://www.parliament.nsw.gov.au/Pages/sitting-day-calendar.aspx?y=2020>>; NSW Department of Education, *Calendar 2020* <<https://education.nsw.gov.au/content/dam/main-education/public-schools/going-to-a-public-school/media/documents/2020-calendar.pdf>>; 'Sitting Day Calendar (2019)', *Parliament of New South Wales* (Web Page) <<https://www.parliament.nsw.gov.au/Pages/sitting-day-calendar.aspx?y=2019>>; '2019 NSW School Holiday Info', *NSW School Holidays* (Web Page) <<https://www.nswschoolholiday.com.au/index.php/nsw-school-holiday-dates-2019>>.

87 *NSW Legislative Assembly Standing Orders* (n 75) cls 28–29; *NSW Legislative Council Standing Orders* (n 82) cl 63.



## **B** Victoria

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The Standing and Sessional Orders of both chambers of the Victorian Parliament continue to ban the admission of ‘strangers’ into sittings except by the relevant presiding officer.<sup>88</sup> Unlike in other Australian jurisdictions, there are not even any limited exceptions for allowing the automatic admission of children in particular circumstances. Following the ejection of Kirsti Marshall from the Legislative Assembly for breastfeeding her newborn in the chamber in 2003, the Speaker ruled that only they would retain the discretion to admit infants being breastfed.<sup>89</sup>

Both chambers of the Victorian Parliament have made changes aimed at limiting the hours at which they sit. The Standing Orders of the Legislative Assembly provide that the Speaker must interrupt business to propose an adjournment at 10pm, which the current Assembly’s Sessional Orders have further limited to 7pm on Tuesdays and Wednesdays and 5pm on any other day. In the Legislative Council, however, the President will interrupt business to suggest an adjournment at 10pm on Tuesdays and Thursdays, 6.30pm on Wednesdays and 4pm on Fridays. The Parliament also avoided sitting during any school holiday periods over the last three years, but like other jurisdictions, was not required to do so.<sup>90</sup>

Victorian parliamentarians are not entitled to set periods of parental leave. In the Legislative Assembly, members must not be absent for more than nine consecutive sitting days without advising the Speaker of why.<sup>91</sup> As in the Commonwealth chambers, members of the Legislative Council must be granted leave by the house on a motion stating the cause and period of absence.<sup>92</sup>

The Victorian Parliament does not advertise any dedicated childcare facilities within the building.

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88 *Victorian Legislative Assembly Standing Orders* (n 76) cl 183; *Victorian Legislative Council Standing Orders* (n 76) cl 22.04.

89 Victoria, *Parliamentary Debates*, Legislative Assembly, 18 March 2003, 248 (Judy Maddigan).

90 See *Yearly Sitting Dates 2021*, *Parliament of Victoria* (Web Page) <[https://www.parliament.vic.gov.au/about/daily-calendar/yearly-sitting-dates/yearly-sitting-dates-2021?showyear=2021&section\\_id=453&cat\\_id=453](https://www.parliament.vic.gov.au/about/daily-calendar/yearly-sitting-dates/yearly-sitting-dates-2021?showyear=2021&section_id=453&cat_id=453)>; ‘School Term Dates and Holidays in Victoria’, *Victoria State Government* (Web Page) <<https://www.education.vic.gov.au/about/department/Pages/datesterm.aspx>>; ‘Yearly Sitting Dates 2020’, *Parliament of Victoria* (Web Page) <[https://www.parliament.vic.gov.au/about/daily-calendar/yearly-sitting-dates/yearly-sitting-dates-2020?showyear=2020&section\\_id=453&cat\\_id=453](https://www.parliament.vic.gov.au/about/daily-calendar/yearly-sitting-dates/yearly-sitting-dates-2020?showyear=2020&section_id=453&cat_id=453)>; ‘School Term Dates and Holidays in Victoria’, *Victoria State Government* (Web Page) <<https://www.education.vic.gov.au/about/department/Pages/datesterm.aspx>>; *Yearly Sitting Dates 2019*, *Parliament of Victoria* (Web Page) <[https://www.parliament.vic.gov.au/about/daily-calendar/yearly-sitting-dates/yearly-sitting-dates-2019?showyear=2019&section\\_id=453&cat\\_id=453](https://www.parliament.vic.gov.au/about/daily-calendar/yearly-sitting-dates/yearly-sitting-dates-2019?showyear=2019&section_id=453&cat_id=453)>; ‘School Term Dates and Holidays in Victoria’, *Victoria State Government* (Web Page) <<https://www.education.vic.gov.au/about/department/Pages/datesterm.aspx>>.

91 *Victorian Legislative Assembly Standing Orders* (n 76) cl 26.

92 *Victorian Legislative Council Standing Orders* (n 76) cl 3.02.

## C Queensland

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The Speaker of the Queensland Legislative Assembly, as in other jurisdictions, solely retains the power to admit ‘strangers’ into the chamber, while members are prevented from doing so.<sup>93</sup> Suggestions that the Standing Orders would be amended after Brittany Lauga MP breastfed her daughter in the chamber in 2018 did not materialise.<sup>94</sup> While most Speakers are likely to allow children to enter the chamber, it would be more appropriate for the Standing Orders to stipulate that they are automatically entitled to do so.

As discussed above, the current Sessional Orders of the Queensland Legislative Assembly require automatic adjournment at either 6.30pm or 7.30pm on scheduled sitting days.<sup>95</sup> This process provides lawmakers with caring responsibilities with much greater certainty around their obligations, in comparison with other jurisdictions. Indeed, throughout all of 2020, the Assembly only sat once after midnight.<sup>96</sup> It should be reflected in the Assembly’s ongoing Standing Orders to ensure such certainty continues. Like in other jurisdictions, the sitting calendar of the Assembly aligned with school terms over the past three years.<sup>97</sup> Again, however, there remains no requirement that such alignment occur.

As in other jurisdictions, parliamentarians seeking parental leave must be granted a leave of absence by the entire chamber.<sup>98</sup> There is no guidance within the Standing or Sessional Orders regarding how long such leave can be.

The Queensland Parliament building also does not appear to contain specific childcare facilities for use by members and staff with caring responsibilities.

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93 *Standing Rules and Orders of the Legislative Assembly* (Standing Orders, Parliament of Queensland, Legislative Assembly, 31 August 2004) cl 284 (*‘Queensland Legislative Assembly Standing Orders’*).

94 Chris O’Brien, ‘House Rules Set to Change After Baby Breaches 19th Century Prohibition on “Strangers”’, *ABC News* (online, 14 February 2018) <<https://www.abc.net.au/news/2018-02-14/baby-in-qld-parliament-to-prompt-rule-change/9445346>>.

95 *Sessional Orders of the Legislative Assembly, 57<sup>th</sup> Parliament (First Session)* (Sessional Orders, Parliament of Queensland, Legislative Assembly, 26 November 2020) cl 1–2.

96 ‘Statistics of the Assembly’, *Queensland Parliament* (Web Page) <<https://www.parliament.qld.gov.au/work-of-assembly/sitting-dates/work-of-the-house/work-of-house-current>>.

97 See ‘Sitting Dates’, *Queensland Parliament* (Web Page) <<https://www.parliament.qld.gov.au/work-of-assembly/sitting-dates/dates>>; ‘School Holidays and Term Dates’, *Queensland Government* (Web Page) <<https://education.qld.gov.au/about-us/calendar/term-dates>>; ‘Sitting Dates 2020’, *Queensland Parliament* (Web Page) <<https://www.parliament.qld.gov.au/work-of-assembly/sitting-dates/dates/2020>>; Queensland Government, *2020 School Calendar: Queensland State Schools* <<https://education.qld.gov.au/about/Documents/2020-school-calendar.pdf#search=2020%20school%20term%20dates>>; ‘Sitting Dates 2019’, *Queensland Parliament* (Web Page) <<https://www.parliament.qld.gov.au/work-of-assembly/sitting-dates/dates/2019>>; Queensland Government, *2019 School Calendar: Queensland State Schools* <<https://bargarass.eq.edu.au/sup-portandresources/formsanddocuments/documents/qld-state-school-calendar.pdf>>.

98 *Queensland Legislative Assembly Standing Orders* (n 94) cl 263B.

## D South Australia

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In both the House of Assembly and Legislative Council, the presiding officer has the sole power to admit strangers into the chambers.<sup>99</sup> The current Sessional Orders of the House of Assembly do, however, state that '[a] stranger does not include an infant cared for (which includes feeding and breastfeeding) by a member.'<sup>100</sup>

The Standing Orders of the House of Assembly require that the House is automatically suspended at 6pm to vote on whether to continue at 7.30pm or adjourn.<sup>101</sup> Sittings will automatically be adjourned at midnight.<sup>102</sup> The Legislative Council will similarly suspend sittings at 6pm to determine whether to continue at 7pm or adjourn for the day.<sup>103</sup> Over the past three years, the Parliament did not sit during any school holiday periods, but similarly to above, did not require such an alignment.<sup>104</sup>

The current Sessional Orders of the South Australian House of Assembly are unique amongst Australian parliaments. They provide that 'a Member who is pregnant shall be entitled, without a vote of the Assembly, to 20 weeks maternity leave of absence, and that leave shall commence at a time notified by the Member to the Speaker.'<sup>105</sup> Such leave is not forfeited if the member attends the House before its expiration (in contrast to any other leave taken).<sup>106</sup>

The Parliament of South Australia does not advertise any specific childcare facilities.

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99 *Standing Orders for Regulating the Public Business of the House of Assembly* (Standing Orders, Parliament of South Australia, House of Assembly, 2018) cls 69–71 ('*South Australia House of Assembly Standing Orders*'); *Standing Orders of the Legislative Council Relating to Public Business* (Standing Orders, Parliament of South Australia, Legislative Council, 5 August 1999) cl 445 ('*South Australia Legislative Council Standing Orders*').

100 *Sessional Orders* (Sessional Orders, Parliament of South Australia, House of Assembly, 5 February 2020) cl 8 ('*South Australia House of Assembly Sessional Orders*').

101 *South Australia House of Assembly Standing Orders* (n 100) cl 53.

102 *Ibid* cl 51.

103 *South Australia Legislative Council Standing Orders* (n 100) cl 60.

104 See 'Sitting Program by Year', *Parliament of South Australia* (Web Page) <<https://www.parliament.sa.gov.au/en/Sitting-Program/Sitting-Program-by-Year>>; 'Term Dates for South Australian State Schools', *Government of South Australia* (Web Page) <<https://www.education.sa.gov.au/parents-and-families/term-dates-south-australian-state-schools>>.

105 *South Australia House of Assembly Sessional Orders* (n 100) cl 7.

106 *Ibid*.

## E Tasmania

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The current rules of the Tasmanian House of Assembly state that members cannot bring any stranger into the chamber, but that this 'does not apply to a female Member feeding, or otherwise caring for, their infant child (who is under twelve months of age) who is not disrupting the proceedings of the House.'<sup>107</sup> Otherwise, the Speaker is the only person able to admit strangers onto the floor of the House.<sup>108</sup> In the Legislative Council, only the President may admit visitors into the chamber, with no exceptions for children at all.<sup>109</sup>

Sittings of the House of Assembly normally adjourn at 6pm but can be extended on the motion of a Minister.<sup>110</sup> There are no specified adjournment times for the Legislative Council.<sup>111</sup> In 2021, there was one day of overlap between the sitting calendar of the Legislative Council and the Tasmanian school holidays.<sup>112</sup>

As discussed above, the House of Assembly automatically entitles members 12 weeks of maternity leave without first requiring a vote of the entire chamber.<sup>113</sup> No similar scheme exists in the Legislative Council.<sup>114</sup>

The Parliament of Tasmania 'contains office accommodation for Members and staff, the Parliamentary Library on the ground floor, the Parliamentary Museum in the basement, dining rooms and reception areas, and offices and interview rooms for media.' But much like other Australian jurisdictions, it does not have dedicated childcare facilities.

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<sup>107</sup> *House of Assembly Standing & Sessional Orders and Rules* (Standing Orders, Parliament of Tasmania, House of Assembly, 17 August 2017) cl 345 ('*Tasmania House of Assembly Standing Orders*').

<sup>108</sup> *Ibid* cl 346.

<sup>109</sup> *Standing Orders Legislative Council* (Standing Orders, Parliament of Tasmania, Legislative Council, November 2010) cl 339 ('*Tasmania Legislative Council Standing Orders*').

<sup>110</sup> *Tasmania House of Assembly Standing Orders* (n 108) cls 18–18A.

<sup>111</sup> *Tasmania Legislative Council Standing Orders* (n 110) cl 31–32.

<sup>112</sup> Parliament of Tasmania, *Proposed Parliamentary Sittings 2021* <[http://www.premier.tas.gov.au/site\\_resources\\_2015/additional\\_releases/supporting\\_tassie\\_businesses\\_doubling\\_coaching\\_hours\\_in\\_digital\\_ready\\_program/2021\\_parliament\\_sitting\\_schedule](http://www.premier.tas.gov.au/site_resources_2015/additional_releases/supporting_tassie_businesses_doubling_coaching_hours_in_digital_ready_program/2021_parliament_sitting_schedule)>; 'Term Dates 2021', *Tasmanian Government* (Web Page) <<https://www.education.tas.gov.au/about-us/term-dates/>>.

<sup>113</sup> *Tasmania House of Assembly Standing Orders* (n 108) cl 36(2).

<sup>114</sup> See *Tasmania Legislative Council Standing Orders* (n 112) cl 34.

## **F** Western Australia

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Both the Legislative Assembly and Legislative Council invest their respective presiding officers with the sole power to admit strangers into the chambers.<sup>115</sup> However, the Legislative Council excludes from this rule ‘Members’ infants requiring immediate care.<sup>116</sup>

Neither the rules of the Legislative Assembly or Legislative Council require that an automatic motion for adjournment occur at a specific time. Adjournments are generally scheduled for between 5 and 10pm.<sup>117</sup>

Like in other jurisdictions, leave must be sought by members from the entire chamber to take a leave of absence. There are no specific rules regarding the taking of parental leave.

## **V** Conclusion

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Australian state and Commonwealth parliaments are responsible for representing all Australians. As such, they should reflect the values that Australians hold in relation to caregiving. Parliaments should be a place in which people with caring responsibilities – who, across Australia, continue to disproportionately be female-identifying – are welcomed and their needs accommodated.

This report has set out five key recommendations which, though simple, would monumentally change the capacity for those with caring responsibilities to participate in our democracy. They would give women incentives to run for office and allow them to succeed once there, rather than being forced to leave. This would not be of benefit to women only. While care is disproportionately allocated to women, it is far from solely a women’s issue. It is a societal issue, which, if prioritised, will greatly benefit all in Australian society.

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115 *Western Australia Legislative Assembly Standing Orders* (n 80) cl 40; *Western Australia Legislative Council Standing Orders* (n 80) cl 97.

116 *Western Australia Legislative Council Standing Orders* (n 80) cl 1.

117 See *Ibid* cl 5(3).



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