

Boosting Parental Leave to Enhance Economic Security, Support and Flexibility for Australia's Families

Regulation Impact Statement
Department of Social Services



Copyright notice



This document is licensed under the [Creative Commons Attribution 4.0 International Licence](https://creativecommons.org/licenses/by/4.0/legalcode)

Licence URL: <https://creativecommons.org/licenses/by/4.0/legalcode>

Please attribute: © Commonwealth of Australia ([Department of Social Services](#)) 2015

Notice:

- 1.If you create a derivative of this document, the Department of Social Services requests the following notice be placed on your derivative: Based on Commonwealth of Australia (Department of Social Services) data.
- 2.Inquiries regarding this licence or any other use of this document are welcome. Please contact: Branch Manager, Communication and Media Branch, Department of Social Services. Phone: 1300 653 227. Email: communication@dss.gov.au

Notice identifying other material or rights in this publication:

- 1.Australian Commonwealth Coat of Arms — not Licensed under Creative Commons, see <https://www.itsanhonour.gov.au/coat-arms/index.cfm>
- 2.Certain images and photographs (as marked) — not licensed under Creative Commons

Contents

Introduction

Current setting

1. What is the problem you are trying to solve?
2. Why is government action needed?
3. What policy options are you considering?
4. What is the likely net benefit of each option?
5. Who did you consult and how did you incorporate their feedback?
6. What is the best option from those you have considered?
7. How will you implement and evaluate your chosen option?

References

Introduction

Summary of changes

From 1 July 2023, the Government is introducing key changes to the Paid Parental Leave (PPL) scheme to better reflect the needs of modern Australian families.

This document provides an analysis of the regulatory impacts of the following proposed amendments to the PPL scheme:

- 1) Increasing the length of entitlements under the scheme to 26 weeks,
- 2) Introducing a more gender-neutral claim process,
- 3) Reserving two weeks of Parental Leave Pay (PLP) as a 'use it or lose it' entitlement for each parent, and
- 4) Allowing parents to take one or more days of PLP concurrently.

These changes aim to increase gender equality under the PPL scheme, and signal that taking time away from work to care for children is the responsibility of both parents.

The proposed amendments build on changes to the PPL scheme announced on 29 March 2022 as part of the 2022-23 March Budget measure – *Enhanced Paid Parental Leave for Families* (OBPR22-02029, 44413) to:

- Create a single 20-week payment under the PPL scheme by combining Dad and Partner Pay (DaPP) with PLP,
- Introduce a family income limit of \$350,000 adjusted taxable income (ATI) in addition to the existing individual income limit (\$156,647 from 1 July 2022), and
- Increase the flexibility of PLP so that the entire entitlement will be able to be taken in blocks as small as one day at a time, with periods of work in between, within two years from the birth or adoption.

An explanation of the policy, including definition of key terms, is included in the Background section (page 4).

A Regulation Impact Statement (RIS) analysing the impacts of the amendments to the PPL scheme announced on 29 March 2022 was completed by DSS. On 27 March 2022 the Office of Best Practice Regulation (OBPR) assessed the RIS as adequate to inform a Government decision.

The OBPR advised that the RIS needs to be updated and reassessed through a two pass process in order to meet the Australian Government's RIS requirements for the additional policy amendments. This RIS analyses the impacts of both sets of amendments. Draft versions of the updated RIS were used to inform decisions of Government before this finalised RIS was used to inform a final decision of Government.

On 15 October 2022, the Prime Minister partially announced the changes to the PPL policy, with further details to be announced as part of the 2022-23 October Budget.

Background

Following a public inquiry into paid maternity, paternity and parental leave, the Productivity Commission released its report, *Paid Parental Leave: Support for Parents with Newborn Children*, in May 2009.¹ The report proposed a model for a Government-funded paid parental leave scheme.

The PPL scheme is closely based on the model proposed in the Productivity Commission report. A key difference is the inclusion of an income test in the PPL scheme, which was not included in the Productivity Commission model. The PPL scheme was introduced with an income test, to target the payment to individuals with incomes below a certain threshold.

The PPL scheme is currently comprised of two payments:

- PLP— for up to 18 weeks, at a rate based on the national minimum wage to eligible primary carers of a newborn or recently adopted child, and
- DaPP— for up to two weeks, at a rate based on the national minimum wage to fathers and partners caring for a newborn or recently adopted child.

Detailed current policy settings for both payments are outlined below.

Key terms

Term	Definition
Care of a child	The child is in the care of a person for a day
Exceptional circumstances	A person can make a claim for PLP in exceptional circumstances where the birth parent or adoptive parent of a child are incapable of caring for the child for a continuous period of at least 26 weeks.
Parent	Legal parent of a child, be it biological, adoptive, born through artificial conception or born through a surrogacy arrangement.
Partner	The other member of a couple, i.e. if a birth parent is in a partnered or de facto relationship, the person with whom they are partnered
Primary Claimant	A primary claimant is a child's birth parent, an adoptive parent or another person in exceptional circumstances.
Secondary Claimant	A secondary claimant is the other biological parent of the child and / or the partner of the primary claimant, or another person in exceptional circumstances.
Tertiary Claimant	A tertiary claimant is a person not covered by primary or secondary claimant, and who may claim in exceptional circumstances.

Current policy settings for Parental Leave Pay

The objectives of PLP are to provide financial support to primary carers (mainly birth mothers) of children, in order to:

- allow those carers to take time off work to care for the child after the child's birth or adoption,
- enhance the health and development of birth mothers and children,
- encourage women to continue to participate in the workforce,
- provide those carers with greater flexibility to balance work and family life.

PLP provides eligible working parents (usually birth mothers) with up to 18 weeks of pay at a rate based on the national minimum wage. PLP has two components: a PPL period of up to 12 weeks and six weeks of flexible PPL. The PPL period must be taken in one continuous block with no breaks in eligibility from the date of birth or adoption until the end of the PPL period. The PPL period must be fully paid within 52 weeks from the date of birth or adoption. Flexible PPL can be taken any

¹ ["Paid Maternity, Paternity and Parental Leave: Inquiry report"](#), Australian Government Productivity Commission, 12 May 2009.

time after the PPL period and within two years of the birth or adoption, on days the primary carer is not working. It can be taken in multiple blocks as small as a day at a time and may include periods of work in between.

A primary claimant is able to transfer all or part of the PPL period to their partner or the father of the child, if they are also eligible, to use on days they have primary care of the child. An eligible primary claimant may also give permission for an eligible father or partner to claim some or all of the flexible PPL days.

Full-time, part-time, casual, seasonal, contract and self-employed workers may be eligible.

In cases of adoption, PLP can be received for a child that is under 16 years of age on the day the day of placement. A claim must be submitted within 12 months of the placement and the PLP entitlement can be received within two years of the date of placement. PLP cannot be received for a child that has come into a person's care under a fostering arrangement, even if the child is eventually adopted by the person.

Tax-payer funded PLP is usually delivered through employers to long-term employees in their usual pay cycle. Parents who do not receive PLP from their employer or who do not have an employer, receive the payments directly from Services Australia.

Claimants of PLP can receive their Government-funded payment before, after or at the same time as employer provided leave.

To be eligible for PLP on a day, a person needs to be the primary carer of a child and meet the work test, income test, residency requirements and must not be serving a newly arrived residents waiting period (NARWP) without an exemption. In addition, to be eligible for a PPL period a person must not have returned to work from the date of birth until the end of their PPL period. To be eligible for flexible PPL on a day a person must not be working on the day.

The Work Test

To be eligible for PLP, a primary claimant must have performed qualifying work for both:

- 10 of the 13 months before the birth or adoption of their child, and
- a minimum of 330 hours (or around one day a week) in that 10 month period.

If coronavirus (COVID-19) affected parents' work, they may be able to use an extended work test when claiming the payment. Under these arrangements, to be eligible for PLP a claimant must have worked for 10 out of the 20 months before the birth or adoption of their child, allowing them to count work they did before COVID-19 affected their employment.

From 4 September 2021, an exception to the work test applies where special circumstances exist (including domestic violence, natural disaster or severe medical condition).

A number of other work test exceptions are also available. For example if claimants:²

- have a pregnancy related complication or illness;
- experience premature birth;
- are employed in a dangerous job or where there are workplace hazards that pose a risk to the pregnancy.

Only certain activities count as qualifying work for the work test. Work includes:

- paid work on a day when the claimant has worked for at least one hour
- paid leave on a day, such as sick leave, annual leave and paid maternity leave, for a period of at least one hour.

Unpaid leave (including unpaid maternity leave) does not count as qualifying work.

Periods of JobKeeper Payment and COVID-19 Disaster Payment also count as work. For periods of JobKeeper Payment and COVID-19 Disaster Payment, a person can count whichever of the following is greater:

- 7.6 hours for each weekday in the period, not including weekends;
- the number of hours actually worked each day, including weekends;
- the number of hours of paid leave each day.

² For more information see: [Exceptions to the Parental Leave Pay work test - Parental Leave Pay - Services Australia](#)

Apart from full time work, the claimant could be engaged in any of the following and still meet the work test requirements:

- be a part time, casual or seasonal worker,
- be a contractor or self-employed,
- have multiple employers,
- have recently changed jobs or left a job, or
- have worked overseas.

For previous periods of PLP or DaPP that fall within the 13 month work test period, each weekday counts as 7.6 hours of work.

The Income Test

To be eligible for PLP, the claimant must have an individual adjusted taxable income of:

- \$150,000 or less in the 2019-20 financial year, or
- \$151,350 or less in the 2020-21 financial year, or
- \$156,647 or less in the 2021-22 financial year.

In establishing whether a person meets the income test, Services Australia look at the claimant's income from the financial year before either:

- the date of birth or adoption, or
- the date the person lodges their claim (whichever date is earlier).

The Residency Test

The claimant must also meet residency rules. When their child is born or adopted they must be living in Australia, and have one of the following:

- Australian citizenship
- a permanent visa
- a Special Category visa³
- a certain temporary visa, for example a partner provisional or temporary protection visa.

Newly arrived residents may have to wait for two years before accessing PLP, with some exemptions. The two year period needs have ended before the birth or adoption of the child. For example, if a person's child was born on 1 April 2021, the parent would have to have been in Australia as a resident since 1 April 2019 to qualify.

Claim hierarchy

A primary claimant for PLP must be the birth mother of the child, an adoptive parent, or others in exceptional circumstances. A claim in exceptional circumstances can be made by a person who has become primary carer of the child because the parent is incapable of caring for the child. A father or partner can claim PLP as a secondary claimant. In order for a secondary claimant to receive PLP, both the primary claimant and the secondary claimant must satisfy income, work and residency tests and NARWP requirements (if relevant).

If a birth mother does not satisfy the work and residency requirements or is serving a NARWP without an exemption, a father or partner cannot be eligible for PLP, even if they does meet these requirements.

Similarly, if a birth mother has an income over the relevant income limit, a father or partner cannot receive PLP, even if their income is below the income limit. Conversely, a birth mother with an income below the relevant income level can receive PLP, regardless of her partner's income.

Current policy settings for Dad and Partner Pay

DaPP provides eligible working fathers or partners with up to two weeks' pay at a rate based on the national minimum wage.

The objective of DaPP is to provide financial support to fathers and partners caring for newborn or newly adopted children, in order to:

³ For more information see: [Residence descriptions - Parental Leave Pay - Services Australia](#)

- increase the time that fathers and partners take off work around the time of birth or adoption,
- create further opportunities for fathers and partners to bond with the child, and
- allow fathers and partners to take a greater share of caring responsibilities and to support mothers and partners from the beginning.

To receive the payment, fathers or partners must:

- be caring for the child on each day of the period they receive DaPP,
- have met the income test (as per PLP requirement),
- have met the work test (as per PLP requirement),
- have met the residency rules and NARWP requirements, and
- not be working or taking paid leave during the DaPP period (except for allowable reasons). The role of employers in DaPP is to provide unpaid leave so that their eligible employees can access the payment.

DaPP claimants can receive their Government-funded payment before or after, but not at the same time as, their employer provided leave.

There is no claim hierarchy for DaPP as it cannot be transferred. Birth mothers cannot be eligible for DaPP.

For the purposes of this payment, father or partner is defined as:

- child's biological father;
- partner of the birth mother;
- adoptive parent;
- partner of an adoptive parent, or
- person caring for a child born of a surrogacy arrangement.

In some circumstances, the person can also be eligible if they are the partner of the biological father or the partner of a new carer where care arrangements have changed (other than a foster care or permanent care arrangement). For more information on relationship types see: [Your relationship status - Dad and Partner Pay - Services Australia](#).

A person can still receive DaPP if they work during the period they are receiving DaPP for allowable reasons. For example, if the person needs to work to comply with a court ordered summons, is a defence force or law enforcement officer working due to a compulsory recall to duty, or is a health professional, emergency services worker or other essential worker, responding to a state, territory or national emergency.

Employer-provided paid parental leave

Both PLP and DaPP can be complemented by employer parental leave schemes. That is, employers can provide additional paid parental leave, either through company policy or enterprise agreements. While superannuation is not included in the PPL scheme, legislation does not prevent individuals from making voluntary superannuation contributions, or employers from choosing to pay superannuation on PLP and DaPP.

Around 81% of employers offering paid parental leave also pay superannuation for parents while on paid leave: almost three quarters pay superannuation during the employer-funded parental leave, and 7% pay superannuation on both employer-funded and government funded parental leave.

History of this Regulation Impact Statement

On 25 March 2022, the RIS – Enhanced Paid Parental Leave for Families – Second Pass Final Assessment was submitted to the OBPR. On 27 March the RIS was assessed as adequate by the Executive Director of the OBPR.

Since this submission, the proposed changes to the PPL scheme have been substantially amended. The new proposal is titled Increased Equality Under the Paid Parental Leave scheme (per this document). Option 1 has remained the same between the Enhanced Paid Parental Leave for Families RIS and this RIS. Option 2 and 3 of the Enhanced Paid Parental Leave for families RIS have been combined to form Option 2 of this RIS. Option 3 of this RIS is novel and reflects the additional proposed amendments to the PPL scheme.

2022-23 March Budget Measure – Enhanced Paid Parental Leave for Families

Changes to the PPL scheme were announced as part of the 2022-23 March Budget measure⁴ – *Enhanced Paid Parental Leave for Families* to:

- combine DaPP and PLP into a single 20 week payment;
- broaden the income test to allow those who do not meet the individual income threshold (currently \$156,647 per annum) to qualify for payment if they meet a family income threshold of \$350,000 per annum; and
- make PLP fully flexible so that the entire entitlement can be taken in multiple blocks as small as one day at a time with periods of work in between, within two years of the birth or adoption.

These changes have not been legislated.

Note that the combination of DaPP and PLP will remove the requirement that fathers and partners take their parental leave days while on unpaid leave from their employment.

2022-23 October Budget Measure – Increased Equality Under the Paid Parental Leave scheme

The October Budget measure retains the changes put forward by the March Budget measure, and make the following additional changes:

- claimants may take PLP days concurrently
- gender neutral claiming, in which either parent may claim PLP first, will be introduced
- reserving a period of the PLP entitlement on a ‘use it or lose it’ basis for each parent, essentially capping entitlements at 18 weeks per parent (single parents will receive the entire entitlement)
- a phased increase in length of PLP to 26 weeks by 1 July 2026.

⁴ [Budget Paper No. 2 | Budget 2022-23](#)

1. What is the problem you are trying to solve?

Improving gender equality by supporting women's workforce participation

In Australia, and in many other countries around the world, social and cultural expectations still place the responsibility of caring for children primarily on women. Women taking on responsibility of care often leads to them being more likely to work part time, or remain out of the workforce for longer periods of time (often affecting or postponing their career aspirations). Men, on the other hand, tend to remain in full-time work.⁵

This, in turn contributes to the gender wage gap, and reinforces the stereotype of a male breadwinner and a female carer. Without adequate financial and cultural support for fathers to take periods of leave when their children are born, families usually revert to the more familiar traditional gendered roles in caring and working.

The Commonwealth Treasury's internal analysis shows that the arrival of children creates a large and persistent increase in the gender gap in earnings (the 'motherhood penalty'), averaging 55 per cent in the first five years following birth. This results from a result of the combination of mother's lower participation rates, reduced working hours and reduced hourly wage. These differences are not driven purely by economic reasons or differences in preferences between the genders. Around one-third of mothers are the primary breadwinner in their household prior to birth but these mothers experience a similar decline in earnings to mothers who are secondary earners prior to birth. Rather, they reflect cultural norms that reinforce the allocation of caring responsibilities in Australia. KPMG estimates that care and family duties account for 39 per cent of the gender pay gap.

In contrast, the proportion of men who use primary carer parental leave in Australia is very small (0.5 per cent of parents using the scheme in 2017-18 were men). In 2020-21, only 89,784 fathers and partners received DaPP (this accounts for only around 30% of births each year, and around 35% of all PPL claimants).

Consistent with trend observed among DaPP claimants, men are less likely to take primary carer's leave. 2020-21 WGEA data shows that, while there has been an increase in the uptake of primary carer's leave by men (particularly amongst men in management roles), men are still less likely to use these benefits. Women account for 88% of all primary carer's leave taken and men account for just 12%.⁶ The current PPL policy settings have received recurring criticism for reinforcing gender inequities in caregiving and discriminating against fathers and partners who wish to take up a caring role (see section 6).

As anticipated by the Paid Parental Leave Act 2010, there are a number of health reasons connected to birth parents' (mostly women) uptake of leave following a birth. This includes time to recover from birth and to breastfeed a child. These requirements influence the ways in which parents split leave, and are understood to be amongst the key drivers of birth parents using the majority of parental leave entitlements.

Data on take up of PPL indicates that in most families, it is women who access the government-funded scheme. The current policy settings, which provide a separate two week DaPP payment to fathers and partners that cannot be taken in conjunction with other paid leave, may make it harder for fathers and partners to take significant time from their jobs to bond with and care for their baby.

Similarly, the claim hierarchy, which requires the birth mother to be a primary claimant and the father/partner to be a secondary claimant for PLP may make it more difficult for fathers and partners to access some or all of the PLP entitlement.

⁵ "Parental leave: Where are the fathers?" OECD Publication 2016; "Fathers' childcare and parental leave policies: Evidence from Western European Countries and Canada" Reich et al. Hamburgisches WeltWirtschaftsinstitut (HWWI) Research Paper 115, 2012; "Promoting gender equality through regulation: the case of parental leave" Miriam Rocha, The Theory and Practice of Legislation, 2021.

⁶ "2020-21 Data Snapshot", February 2022, Workplace Gender Equality Agency

The Workplace Gender Equality Agency reported that that when paid parental leave is available, men are more likely to take it, and employers play a key role in normalising parents' utilisation of paid parental leave and of flexible working arrangements for families.⁷

Reserving two weeks of the PLP entitlement for each parent will mean that fathers and partners will continue to be supported to access at least two weeks of payment under the PPL scheme, but in a more accessible and flexible form.

Introducing a more gender neutral claim process will also support fathers and partners to access PLP by making it easier for them to claim the payment and helping to address cultural factors that reinforce gender inequality.

Simplifying access to the PPL scheme for fathers and partners, and supporting both parents to access the PLP entitlement, may encourage more fathers and partners to take time off work after a birth allowing mothers to return to work where they wish to do so.

Address the common assumption that the primary carer, usually the mother, is the lower income earner in a relationship

Current PPL policy settings do not fully reflect the fact that the composition of the workforce is changing. Under existing income testing rules, disparity in eligibility has emerged over time, depending on income distribution within a family. There are more women in work, and many work more hours than ever before. Based on annual income data published by the Australian Bureau of Statistics, we know that between 2010-11 and 2019-20 the number of women with a taxable income of over \$150,000 increased 2.5 times, from 99,800 to 249,723.

Under the current income testing rules, families in which a mother earns up to \$156,647 can access PLP even if her partner earns a high income. Whereas, a family in which the mother has earned a little more than \$156,647 (even where the partner had no income or the partner income was much lower) would not be entitled to PLP, creating a disparity across families with different combined incomes. There are criticisms that the current scheme is unfair to families where the mother is the higher income earner, and her partner will be the primary carer for a child. Removing the expectation that the primary carer (usually the mother) is the lower income earner in the relationship would help to address those criticisms.

Businesses and Paid Parental Leave

Employer-funded paid parental leave (either to both women and men, or to women only), is offered by 3 in 5 employers (60%). The Government-funded scheme is offered in addition to these arrangements (Workplace Gender Equality Agency (WGEA), 2022).⁸

Access to parental leave continues to be highly dependent on the size and industry of the employer. Half of all employers reporting in the WGEA 2020-21 dataset offer paid parental leave for secondary carers—the average length of primary carer's leave is 10.8 weeks while the average length of secondary carer's leave is 2.3 weeks.

The data also showed that most employers offer paid parental leave regardless of gender. While 91% of organisations that provide primary carer's leave make no distinction between women or men taking that leave, 9% of organisations provide primary carer's leave solely to women.⁹

Paid parental leave is most likely to be offered by large organisations, with 8 in 10 employers with 5,000 or more staff offering primary carer's leave to all, regardless of gender.

⁷ "Towards gender balanced parental leave: Australian and international trends", 2017, Workplace Gender Equality Agency; "Developing a Leading Practice Parental Leave Policy: A guide for employers", 2022, Workplace Gender Equality Agency.

⁸ "2020-21 Data Snapshot", February 2022, Workplace Gender Equality Agency; "Australia's gender equality scorecard", February 2022, Workplace Gender Equality Agency.

⁹ "Australia's gender equality scorecard", February 2022, Workplace Gender Equality Agency.

In terms of length of primary carer's leave, the most common length of paid primary carer's leave offered is between 7-12 weeks (23%). Less than 1 in 10 employers with paid parental leave offer 18 weeks or more.¹⁰

Flow on impacts to businesses and the economy

Parents taking time away from the workforce to care for a newborn or newly adopted child may have some impact on businesses, particularly due to parents taking longer periods of unpaid leave following their paid parental leave. It is an objective of the Paid Parental Leave Act 2010 is to signal that this is part of the usual course of life and work for all parents.

We are not able to quantify the impact this may have upon businesses in terms of women's workforce participation and any impacts on the functioning and profits of businesses.

¹⁰ "Australia's gender equality scorecard", February 2022, Workplace Gender Equality Agency.

2. Why is Government action needed?

The PPL scheme is intended to complement employer-provided parental leave entitlements in order to extend the average length of leave taken by employed parents after childbirth and to provide a minimum entitlement for self-employed women, and women without access to employer-provided leave. The PPL scheme is fully funded by general revenue and administered by the Commonwealth Government. The objectives of government action are outlined below.

Government objectives

Improve gender equality by removing the “default” of PLP assuming that birth parents are primary carers

Currently, under the PPL scheme, PLP ‘defaults’ to the birth mother, who can transfer PLP to the father or partner as a secondary claimant. This perpetuates the societal expectation that women should have primary responsibility for raising children. As a result, women are routinely disengaged from paid employment following the birth or adoption of their child.

The PPL scheme is only one of a number of mechanisms that may influence the cultural change required to remove the assumption that caring for children is primarily the work of women (see challenges and barriers section below). This policy aims to address this issue by encouraging working families to engage actively with PLP and decide how they will share the available entitlement to support caring for their child.

When the PPL scheme was introduced on 1 January 2011, an effective communication campaign was conducted to alert new or expecting parents to the existence of the scheme and encourage them to apply for payments. Similar messaging was used leading up to and following the introduction of DaPP on 1 January 2013. This messaging has continued, to attempt to encourage fathers and partners (usually men) to access the two week DaPP entitlement.

As a prominent announcement as part of the Budget, media attention afforded to changes to the PPL scheme will also be of assistance in publicising the new features and eligibility criteria.

Increase flexibility for families by allowing parents to take PLP concurrently

Under the current PPL scheme, claimants sharing PLP are not able to take PLP on the same day as each other, which limits the extent to which parents are able to care for a new child simultaneously. Under the new proposal, claimants may take days concurrently, which will improve the flexibility of the scheme and allow new parents to use their leave in the way that best suits their family and work obligations.

Encourage more parents to take time off work after a birth by reserving two weeks of PLP as a ‘use it or lose it’ entitlement for each parent

Currently under the PPL scheme, a two week use it or lose it entitlement is reserved for use by fathers and partners in the form of DaPP, which cannot be taken at the same time as employer-paid leave. Under the new proposal, each parent must take at least two weeks of PLP in order for the family to receive the full 20 week entitlement. This signals that parenting is an equal partnership that should be shared between parents. Further, research shows that reserving periods of leave specifically for men results in increased uptake of leave.

Alternatives to Government action

As an alternative to amending the Government-funded PPL scheme, the role of businesses in paying parental leave could be encouraged – either by policy or legislation. Businesses who have the capacity to do so may be encouraged to increase paid parental leave to employees as an incentive in the absence of a more generous government scheme.

At present, businesses that do not offer paid parental leave (around 40% of all employers according to 2021 WGEA reporting) claim they do not provide payment on the basis that they are unable to afford it and/or that the current government scheme is sufficient for employees.

Challenges and barriers

There are a number of barriers to improving gender equality, women's workforce participation, and encourage shared caring of children.

Cultural and societal norms

At present and historically, an expectation has been placed upon women to leave the workforce following the birth of a child, and assume responsibility for the care of that child and of the home. This issue is not specific to Australia, and is prevalent across the world.¹¹

The proposed changes (see options 2 and 3) aim to change these norms, and encourage women's reengagement with paid work and increase men's engagement with childcare.¹² Shifting societal norms is difficult and these changes will take time to have an effect. In the immediate term, these changes will provide families with the opportunity and flexibility to make decisions that suit them while also encouraging greater sharing of parental responsibilities.

Administrative complexities

The increased flexibility of the PPL scheme may pose administrative concerns to families and businesses, who will need to balance parental leave against work requirements. The intended flexibility may not be achievable for all businesses or all employees as business continuity must be maintained, particularly for small businesses.

Economic concerns

While the proposed changes intend to encourage more equal use of PPL by both parents, as PPL is paid at a rate based on the national minimum wage it is likely that the higher earner in a couple (often the father) will return to work earlier in order to maintain the family's financial stability.

¹¹ "Promoting gender equality through regulation: the case of parental leave" Miriam Rocha, *The Theory and Practice of Legislation*, 2021.

¹² "Parental leave: Where are the fathers?" OECD Publication 2016 (OECD).

3. What policy options are you considering?

Three policy options have been considered:

- **Option 1** proposes to retain current policy settings (as described in the Background section of this document)
- **Option 2** proposes to implement settings in the 2022-23 March Budget measure to: combine DaPP and PLP into a single payment, introduce a family income test (\$350,000), and make PLP entitlements fully flexible.
- **Option 3** proposes to build on the changes in Option 2 to:
 - introduce gender neutral claiming, such that either parent can claim PLP first;
 - reserve two weeks of PLP as a 'use it or lose it' entitlement for each parent; and
 - allow parents to take PLP concurrently.

Each of the options is described in detail below.

Option 1 – Status Quo

Under this option, no amendments would be made to the PPL scheme, leaving the current policy parameters (as described in the background section) in place.

This option would see the PPL scheme continue to operate closely based on the Productivity Commission's 2009 recommendations and settings. This option would not have any additional costs and would continue to support fathers and partners of the birth mother through their own specific payment and eligibility requirements, supporting all eligible claimants with a newborn or adopted child to make a claim for payment, without the explicit need for an eligible birth mother.

It would also provide the Government more time to consider and evaluate the introduction of the 1 July 2020 flexibility measure (which introduced 6 weeks of flexible PPL), and if take up of the option and transfers of payments to secondary claimants increases as more families become aware of these arrangements.

Services Australia continues to alert PLP recipients of their ability to access six weeks of their PLP flexibly at the time they claim. In 2020-21, less than 10 per cent of PLP recipients used their entitlement flexibly.

For a detailed description of current policy settings please refer to the Background section.

Option 2 – Implement the settings announced in 2022-23 March Budget to combine DaPP and PLP into a single payment, add a family income limit of \$350,000 and increase the flexibility of PLP

This proposal would seek to combine the current payments under the PPL scheme into a single, flexible 20-week entitlement, that working families can use to support their specific circumstances.

This proposal would simplify sharing PLP, supporting families to better balance work and caring responsibilities. Eligible working parents will be able to share PPL entitlements between them as much, or as little, as works for their specific circumstances within two years of their child's birth or adoption.

A single payment under the PPL scheme will assist to further promote equality between mothers and fathers, by providing equality of opportunity in relation to both work and care. It also continues to support the health and wellbeing of birth mothers, with women able to take the amount of PLP that works for them.

The health and development objectives of the PPL scheme would also continue to be supported by retaining the current claim hierarchy, which requires that a birth mother claim as a primary claimant first, with the ability to transfer all or part of

the entitlement to the father or partner, provided both meet the eligibility criteria. This allows the birth mother to keep the entitlement if she chooses.

The claim hierarchy is described below:

- The primary claimant (birth mother) must meet the work test and residency requirements.
- The primary claimant (birth mother) will be assessed against the individual income test (currently \$156,647).
- If the primary claimant (birth mother) fails the individual income test, the claimant can be assessed under a family income test of \$350,000.
- If found eligible, the primary claimant (birth mother) can transfer PLP to an eligible father/partner, who also needs to meet the work, income and residency tests.

Once eligibility has been determined through the claim hierarchy, families in which both parents are eligible will be able to share 20 weeks of PLP flexibly between them.

The family income test is at a level that ensures that families in which both parents are earning over the individual income test by a small amount will still be able to access the scheme.

Option 3 – Introduce gender neutral claiming, ‘use it or lose it’ PLP, concurrency, and additional weeks

From 1 July 2023, this proposal would seek to improve gender equality and flexibility of the PPL scheme, by reforming the claim hierarchy to make it more gender neutral, reserving two weeks of PLP for each parent and allowing parents to take PLP concurrently. These changes would be implemented in addition to settings outlined in Option 2.

These changes will make it easier for fathers and partners to access PLP, as the entitlement will no longer “default” to the birth parent. Rather, families can decide who should lodge their claim for PLP first.

The permission of the birth parent will be required for the non-birth parent to become the primary claimant, to help mitigate instances of family and domestic financial violence being perpetrated by an abuser claiming the majority of PLP entitlements. This will prevent non-birth parents from using the majority of the payment without awareness or permission from the birth parent, which may be used to perpetrate financial abuse or coercive control. There is no similar risk of this being done without the birth parent’s knowledge under the status quo or option 2.

The removal of the claim hierarchy will also extend eligibility for PLP to fathers and partners who are currently excluded when their partner is not residentially qualified. This change will address a recurring criticism of the current setting as being discriminatory.

Similarly, the income test will be applied to claimants individually, meaning non-birth parents will not be precluded from accessing PLP on the basis of their partner’s income.

Eligibility criteria regarding the work test will remain unchanged; if the birth parent does not meet the work test, the non-birth parent will not be able to access PLP.

This amendment will also reserve two weeks of PLP for each parent to use on a ‘use it or lose it’ basis. This will result in a maximum entitlement of 18 weeks per parent. This is intended to incentivise parents to take at least two weeks of PLP each, and signals that caring for a new child is the responsibility of both parents.

The flexibility of the scheme will be improved by allowing parents to take PLP days concurrently, which is not possible under the current arrangements, or under Option 2.

The length of the scheme will be increased in a phased approach to a maximum of 26 weeks by 1 July 2026.

4. What is the likely net benefit of each option?

Option 1 – Status Quo

The PPL scheme is intended to complement employer-provided parental leave entitlements in order to extend the average length of leave taken by employed parents after childbirth, and to provide a minimum entitlement for self-employed women and women without access to employer-provided leave. The PPL scheme is closely based on the scheme proposed by the Productivity Commission, an independent research and advisory body. In its 2009 inquiry report, the Productivity Commission recommended a Government-funded parental leave payment of 18 weeks, noting that the benefits of funding a payment for more than 18 weeks would not be worth the additional costs of forgone spending on other areas such as health and child care. The Productivity Commission also recommended a paternity leave payment of two weeks for fathers and partners.

The current PPL scheme is designed to ensure the primary carer of a child, whoever that may be, is supported. The PPL scheme was amended in 2020 to increase the flexibility of the PPL scheme by making it easier for the last six weeks of PLP to be shared between parents, and allowing it to be used any time within two years of the birth or adoption of a child, in blocks as short as one day. It is important to note that many women may choose to take the full 18 weeks of PLP to maximise their time with their baby.

The significant take-up rate of PLP by women suggests that the PLP component has been effective in supporting working women financially. Latest data shows that since 1 January 2011, nearly 1.75 million people have received PLP, and the rate of take-up continues to increase over time. Data shows that the number of PLP recipients has grown from around 132,000 in 2012-2013 financial year, to around 170,000 annually, since 2015-16 financial year.

Similarly, there has been an increase in DaPP claims, with around 750,000 fathers or partners receiving the payment since the measure was introduced. Take-up of DaPP has also increased steadily over time, from around 75,000 claimants per year following its introduction, to around 90,000 recipients each year at present, while the birth rate has remained relatively static.

The 'use it or lose it' characteristic of the DaPP component of PPL may have incentivised many fathers and partners to take leave where they would not have otherwise. It has also allowed fathers and partners to take leave concurrently with mothers (who may be taking PLP) to support child-caring duties while mums recover from childbirth.

Evidence from an independent PPL evaluation, conducted by University of Queensland over a four year period, from 2010 to 2014, found that the introduction of PPL allowed mothers to take additional time away from paid work following the birth of their children. The main effects of the scheme arise from the additional time mothers were able to take, and the financial security that was provided by a guaranteed income for up to 18 weeks.

Key evaluation findings were that:

- PPL delayed mothers' return to work during the first six months following a birth, so that more mothers stayed at home for at least 18 weeks after the birth of their baby.
- PPL also slightly increased mothers' tendency to return to work in the longer-term, so that more mothers had returned to work by 12 months after the birth of their baby.
- The impact of PPL in delaying mothers' return to work was most pronounced amongst lower income mothers and those with lower formal education, including those on casual employment contracts.
- PPL had a large effect in extending self-employed mothers' time off work during the first six months.
- PPL increased employers' retention of mothers when they returned to work. This effect was most pronounced amongst mothers with lower levels of formal education.
- PPL produced small improvements in mothers' health, extended breastfeeding duration, and probably improved babies' health slightly.

- The additional time and income security provided by PPL reduced the proportion of mothers who felt rushed and pressed for time, thus enhancing work-life balance.

This option will have no regulatory impacts.

Option 2: Implement the settings announced in 2022-23 March Budget to combine DaPP and PLP into a single payment, add a family income limit of \$350,000 and increase the flexibility of PLP

Regulatory impacts

It is estimated that in the first year of implementation, around 181,000 parents would be impacted under this option, including around 2,200 new entrants who would not have qualified under current policy settings.

Combine DaPP and PLP into a single payment, increasing the PLP entitlement to 20 weeks

Impact on Individuals

Under this Option, it is expected that around 94,000 DaPP claimants will no longer need to separately claim DaPP as well as PLP. Estimating that it takes an average of 1 hour to complete a DaPP claim form, and using the non-work-related labour cost of \$36/hour, this would result in a regulatory **save** for individuals of 1 hour x \$36 x 94,000 individuals = **\$3,384,000**.

However, it is expected that around 70,500 of these 94,000 claimants will claim PLP as a secondary claimant instead of claiming DaPP. Note that 23,500 former DaPP recipients will be precluded from accessing the scheme due to the work status of the birth parent. Estimating that it takes an average of 1 hour to complete a PLP claim form, and using the non-work-related labour cost of \$36/hour, this would result in a regulatory **burden** for individuals of 1 hour x \$36 x 70,500 individuals = **\$2,538,000**.

In addition, it would take approximately 10 minutes for a primary claimant to transfer PLP to each of these secondary claimants. This would result in an additional regulatory **burden** for individuals of 0.17 hours x \$36 x 70,500 individuals = **\$431,460**.

The total regulatory save for individuals under this Option is **\$414,540**.

Impact on Business

Currently, around 65 per cent of PLP recipients receive their payment from their employer under the scheme's employer role. It is expected that there will be around 181,000 PLP recipients under this measure. Assuming 65 per cent of these also receive PLP from their employer, approximately 117,650 individuals will receive PLP from their employer. Under this measure, it is expected that these employers will continue to provide PLP to these recipients, but for a period of up to 20 weeks rather than 18 weeks. The regulatory impact of this is expected to be minimal, as the extra two weeks for eligible claimants would be provided under existing systems and processes. It is estimated that it will take employers approximately an additional 10 minutes to process the additional 2 weeks payment to their employees. Using the work-related labour cost of \$79.63/hr, the regulatory **burden** is expected to be 0.17 hours x \$79.63/hr x 117,650 employees = **\$1,592,640**.

The total regulatory burden for business under this measure is **\$1,592,640**.

Amend the income test to allow claimants who do not meet the individual income threshold of \$156,647 to still qualify under family income test of \$350,000

Impact on individuals

Under this measure it is expected that an additional 2,200 individuals will be eligible for PLP. Based on an estimated 1 hour to complete the claim form, this would result in an estimated regulatory burden for individuals of 1 hour x \$36 x 2,200 individuals = **\$79,200**.

The total regulatory burden for individuals under this measure is **\$79,200**.

Impact on Business

An additional 2,200 claimants will become eligible to access PLP under this measure. Applying the same 65 per cent rate of employer payment, approximately 1,430 additional individuals will receive PLP from their employer. It is estimated that it will take employers approximately 100 minutes to process these payments to their employees. Using the work-related labour cost of \$79.63/hr, the regulatory burden is expected to be 1.67 hours x \$79.63/hr x 1,430 employees = **\$190,164**.

The total regulatory burden for businesses under this measure is **\$190,164**.

Regulatory burden estimate (RBE) table

Average annual regulatory costs				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	\$	\$	\$	\$
Combine DaPP and PLP into a single payment, increasing the PLP entitlement to 20 weeks	0.41	1.59		1.18
Amend the income test to allow claimants who do not meet the individual income threshold of \$156,647 to still qualify under family income test of \$350,000	0.79	0.19		0.27
Total	-0.34	1.78	\$0	1.45

Social and Economic Impacts

Costs

By combining DaPP with PLP, families will be given more choice, but some fathers may also be disincentivised to access PPL. Both domestic and global evidence suggests that when given a choice to nominate a primary carer to take leave after a birth, fathers would commonly transfer their rights to mothers (please refer to Risks and Sensitivities below for impacts). Mothers may benefit from this transfer in the interests of health and breastfeeding (mentioned above). Despite the increased flexibility for fathers to use PPL under this option, the likelihood of fathers using the scheme without a 'take it or leave it', non-transferrable component is small according to current usage patterns.

An equal system of PPL is just one step of the journey to a parent equality model. Cultural change is essential. For example, it is important that men do not feel a stigma for taking leave after the birth of a child.

It is expected that around 23,500 DaPP recipients, who under the current scheme can access two weeks of DaPP payment when their partner does not meet the work test, would not be eligible under this Option. These are mostly fathers who are the sole income earners of the family, whose partners do not meet the primary claimant's work test to qualify for the revised PLP scheme. This represents a real save of \$38 million, assuming that all DaPP recipients would use the entire period.

Benefits

Increasing the eligibility, access and duration of payment under the scheme aim to further assist families with cost-of-living pressures. In particular, in 2023-24, around 181,000 families who would typically access PLP but not DaPP, would benefit from the policy change. This is particularly beneficial to single mothers, who currently have access to PLP but not DaPP. The changes to the income threshold will also provide access to the payment to around 2,200 new entrants (typically higher income mothers) who previously could not access the scheme. Increased flexibility to balance work and care in a way that best suits family needs may also assist families to have the more productive and higher paid member of the household return to work, regardless of their gender, boosting family incomes and productivity in the broader economy.

These changes would also equalise access to PPL. Unlike the current DaPP policy, fathers and partners would be able to access payment under the PPL scheme at the same time as any employer-funded leave, as is the case for PLP, which is currently predominantly used by mothers.

Changing the scheme will assist individuals by increasing the fairness of the income test, and removing the incorrect assumption that mothers are never the primary breadwinner in a heterosexual relationship. The current PPL has been criticised for not supporting gender equality.

The composition of the workforce is changing and under existing income testing rules gender disparity in eligibility is evident. Depending on income thresholds, a mother who earns more than the father/partner can be ineligible for PLP. Mothers who earn up to \$156,647 can access PLP even if her partner earns a high income, but a family in which the mother has earned more than \$156,647 (even where the partner had no income or the partner income was much lower) is not be entitled to PLP. Addressing the income test to allow mothers to access the family income test, if needed, increases the flexibility, which aims to better support equality of opportunity for working mothers and fathers/partners and alleviate the risk of the scheme being seen as discriminatory.

Generous and flexible paid parental leave policies are used by many businesses to recruit and retain skilled staff. However, many Australians work for small businesses or are self-employed, and are therefore unlikely to be able to access these schemes. Increasing the generosity, flexibility and eligibility for the Government scheme increases the base on conditions parents are entitled to after birth, and helps small businesses to continue to retain valued staff after childbirth. Increasing the flexibility of the scheme also increases the likelihood that the government scheme complements employer-funded schemes. It may also encourage more private employers to increase the generosity and flexibility of those schemes, complementing the Government scheme, further benefiting new parents.

A single, flexible payment under the PPL scheme will help address expectations that women are predominantly responsible for child care post birth, and taking time out of the labour force to care for children. Creating a single payment seeks to support increased equality of opportunity in relation to both work and care. These changes would also equalise access to PPL, with eligible fathers and partners being able to access the Government's PPL scheme at the same time as employer-funded leave, as is the case for PLP, which is currently predominantly used by mothers. One reason why take-up of DaPP was relatively low may be because the replacement wage of the payment at minimum wage was unaffordable for some families. Under current policy settings, DaPP cannot be taken at the same time as other paid leave. The ability to receive paid leave from an employer concurrently with PLP increases the replacement wage available to fathers, and may therefore encourage more fathers to utilise PPL, where it best suits their family. Encouraging more equal sharing may have significant benefits for women's participation and the broader economy. Greater engagement of fathers early in children's lives is also beneficial for child development, and to the mental wellbeing of fathers.¹³

Second round economic impacts

There is a possibility that these policy changes will impact the gender pay gap, women's workforce participation, children and their wellbeing, and society as a whole. Should the policy have the desired behavioural impact, children may benefit from

¹³ "Parental leave: Where are the fathers?" OECD Publication 2016 (OECD); "Fathers' childcare and parental leave policies: Evidence from Western European Countries and Canada" Reich et al. Hamburgisches WeltWirtschaftsinstitut (HWWI) Research Paper 115, 2012.

additional care in the home and time to bond with both parents. However, the evidence available to date is not sufficient to make a concrete assessment of the impact or quantitative outcome of these changes against these metrics.

Risks and Sensitivities

While the PLP entitlement defaults to the birth parent, they are able to transfer some or all of it to their partner, if they take on primary care of the child and meet the eligibility requirements. This will allow fathers to access all 20 weeks of PLP, if that is the family preference. There is a risk that one parent may use all 20 weeks entitlement, and it is more likely that the birth parent will use the entirety of the entitlement. While the Government considers that families should be in charge of their choices, advocates of greater engagement by both parents may see this as a step backwards in the pursuit of gender equality in childrearing, particularly in encouraging men's engagement in childcare. This may represent an opposite effect to the intentions of the policy and reinforce caring stereotypes.

The exclusion of 23,500 claimants from the former DaPP cohort may be criticised as being unfair for families where the birth mother does not meet the work test. However, the core purpose of the PPL scheme is to provide support for working families, where *both* parents are engaged in paid work.

Option 3 – Introduce gender neutral claiming, 'use it or lose it' PLP, concurrency and additional weeks.

Regulatory impacts

This Option will build on the amendments to the PPL scheme in Option 2 in order to introduce gender neutral claiming, reserve two weeks of PLP for each parent, and allow parents to take PLP concurrently. It is estimated that in the first year of implementation, around 181,000 parents would benefit from this measure, including around 4,000 new entrants who would not have qualified under current policy settings.

Introducing gender neutral claiming

Impact on Individuals

Under this measure, it is estimated that an additional 4,000 non-birth parents and partners each year will be eligible for PLP - 2,200 birth parents due to the family income test and 2,600 fathers and partners due to gender neutral claiming. Estimating that it takes an average of 1 hour to complete a PLP claim form, and using the non-work-related labour cost of \$36/hour, this would result in a regulatory **burden** for individuals of 1 hour x \$36 x 4,000 individuals = **\$144,000**.

The total regulatory burden for individuals under this Option is **\$144,000**.

Impact on Business

Assuming a 65 per cent rate of employer payment to the 4,000 new entrants, approximately 2,600 additional individuals will receive PLP from their employer under this measure. It is estimated that it will take employers approximately 100 minutes to process these payments to their employees. Using the work-related labour cost of \$79.63/hr, the regulatory **burden** is expected to be 1.67 hours x \$79.63/hr x 2,600 employees = **\$345,756**..

The total regulatory burden under this Option is \$345,756..

Reserve two weeks of PLP for each parent on a 'use it or lose it' basis

Impact on Individuals

It is estimated that in around 85% of families, fathers and partners will claim PLP in order to access at least two weeks of PLP to use the 'use it or lose it' component of the entitlement, who would otherwise not have claimed PLP. This represents the fathers and partners who are not captured in the DaPP cohort mentioned in Option 2. Based on an estimated 1 hour to

complete the claim form, and using the non-work related labour cost of \$36/hour, this would result in an estimated regulatory **burden** for individuals of 1 hour x \$36 x 154,000 individuals = **\$5,544,000**.

The total regulatory burden for individuals under this Option is **\$5,544,000**.

Average annual regulatory costs				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	\$	\$	\$	\$
Introducing gender neutral claiming	0.14	0.35	0	0.49
Reserve two weeks of PLP for each parent on a 'use it or lose it' basis	\$5.54	0	0	5.54
Including Option 2 amendments	-0.34	1.78	0	1.45
Total	5.34	2.13	0	7.48

Social and Economic Impacts

Costs

It is expected that around 23,500 DaPP recipients, who under the current scheme can access two weeks of DaPP payment when their partner does not meet the work test, would not be eligible under this Option. These are mostly fathers whose partners (the birth mother) do not meet the primary claimant's work test to qualify for the revised PLP scheme. This represents a real save of \$38 million, assuming that all DaPP recipients would use the entire period.

The 'use it or lose it' provision requires that each parent use at least two weeks, and caps parents at a maximum of 18 weeks (excepting single parents). There is a risk that some families may not claim the 'use it or lose it' period and would therefore be financially worse off than if either parent were able to claim the full 20 weeks. However, this must be balanced against the core policy intent of engaging both parents in caring for a child. The Enhanced Paid Parental Leave for Families proposal was criticised by stakeholders for removing the 'use it or lose it' period, as advocates were concerned this would result in reduced access to payments under the PPL scheme by fathers and partners than under current policy settings.

Benefits

Reserving two weeks of PLP for each parent will signal that taking time off work to care for a new child is the responsibility of both parents, contributing to changing social norms around gender roles in caring for children after a birth. Under this Option, both parents will be supported to take at least two weeks off work after a birth or adoption. Research has shown that there are benefits for children in fathers taking leave after a birth, as well as flow on impacts for the division of unpaid work and care responsibilities within a family. Each incremental increase (from 20 weeks to 26 weeks) will add further 'use it or lose it' weeks, encouraging and supporting new fathers to take additional time away from work following the birth of a child. The policy intends to promote men's increased uptake of leave and work towards balancing caring and unpaid work within the home.

The introduction of gender neutral claiming for PLP will indicate that it is appropriate for both parents to access the payment. The current claim hierarchy that requires a birth parent to be a primary claimant for PLP may be interpreted as signalling that PLP is intended for birth parents only. Under this Option, either parent will be able to claim PLP, based on the intended care arrangements of the family.

Allowing parents to take PLP on the same day would further enhance flexibility for parents in how they access PLP under the PPL scheme. This measure aims to support parents to take time off together in the initial period after birth where they wish to do so for bonding, or to allow a non-birth parent to support a birth parent during the post-birth recovery period.

It is intended that new policy settings will encourage more women to reengage with the workforce soon after welcoming a new child. While the gender pay gap in Australia has been linked in part to women's temporary disengagement from the workforce after they become parents, at this stage we are unable to comment on whether the policy will have immediate or direct impacts upon closing the gender pay gap. Women's increased workforce participation may have impact on business profitability or encourage economic growth, however this cannot be quantified.

What does this do that Option 2 does not?

Option 3 goes further towards the government objectives of flexibility and gender-neutrality, and responds to stakeholder and advocate calls for additional weeks of paid parental leave.

Option 3 offers significantly more flexibility than Option 2, particularly in permitting parents to take PLP on the same day. Further, Option 3 actively removes the default setting that the birth mother is the primary claimant of PLP for a child; fathers and partners may access PLP first, and residentially and/or income qualified fathers and partners may access PLP without being precluded due to the income or residency status of the birth mother.

Finally, Option 3 will gradually provide additional weeks to new parents, in response to advocacy from key stakeholders.

Risks and sensitivities

'Use it or lose it'

Reserving a portion of PLP for each parent means that a family cannot access the full 20-week entitlement unless both parents take at least two weeks of PLP each. This may not have the intended effect of increasing participation by fathers and partners. Research has shown that longer periods of reserved leave at a higher rate of pay are required to boost men's participation.

Introducing a 'use it or lose it' component to PLP may be criticised for reducing flexibility for parents and the maximum number of weeks that can be used by each parent, compared to the settings under Option 2.

5. Who did you consult and how did you incorporate their feedback?

Consultations to date

To date, the department has consulted within the government, including with the Commonwealth Treasury, Office for Women and Services Australia.

While there have been no public consultations on the specific PPL policy proposals put forward in this document, each option has been informed by public feedback and calls for the Government to reform the PPL scheme, following the 2022-23 March Budget announcement and the September 2022 Jobs and Skills Summit. This includes:

- ministerial correspondence,
- media articles,
- pre-budget submissions from stakeholders,
- petitions from members of the public (including those formally presented to parliament),
- feedback from industry groups, and
- feedback from research bodies and think tanks.

The Jobs and Skills Summit, held 1-2 September 2022, provided an opportunity for businesses, employers and unions to bring Government's attention to matters of particular importance for working Australians. Among these matters was paid parental leave. The participants collectively agreed that an extension of Australia's PPL scheme from 18 to 26 weeks was of first priority, noting also that adding superannuation to PPL was also a high priority, in the interests of boosting women's superannuation balances at retirement. In requesting 26 weeks, stakeholders have referred to the recommendation from the World Health Organisation that at least six months be made available to new mothers to promote child and maternal wellbeing, build strong bonds, and promote breastfeeding.

The table below lists some of those sources.

The key learnings from engagement with stakeholders are as follows:

- universal support of an increase to the length of time (generally 26 weeks, some supporting 52 weeks) offered under the PPL scheme;
- some stakeholders are supportive of an increased rate of pay, relative to an individual's annual income rather than National Minimum Wage;
- criticism of eligibility/access to PLP being contingent on the birth mother's eligibility, in particular income and residency tests, which preclude working fathers from accessing PLP; and
- general support for improved gender equality and gender-neutral access to the PPL scheme, including supporting fathers to stay home with children and mothers to return to the workforce.

This feedback was taken into account when creating the new policy settings under Option 3, particularly when introducing gender-neutral claiming, the family income test, improving flexibility of the scheme, and adding additional weeks.

Payment of PLP at an increased rate is not being considered; payment at a rate based on National Minimum Wage ensures that all recipients are paid equally regardless of their pre-birth income. Some stakeholders have pointed to schemes used in other countries where claimants are paid at a percentage of their income; these discussions have not accounted for the structure of these other schemes, wherein participants contribute to the scheme as a percentage of their income rather than receive payments from general taxation.

Source	Quotes
<p>“Advocates call for expansion of paid parental leave”</p> <p>The New Daily 19 September 2022</p>	<p>Advocacy group The Parenthood is calling on the government to increase the amount of paid parental leave to 52 weeks, along with allowing for universal access to early childhood education.</p> <p>It comes as the Greens flagged plans to introduce a bill to Parliament that would entitle people to 26 weeks of paid parental leave.</p> <p>Under the party’s proposal, parental leave would be paid at the same rate as the carer’s wage or salary up to \$100,000 per year – meaning a maximum of \$50,000 in leave payments over the full 26 weeks.</p> <p>Parents would also have “use it or lose it” incentives in order to encourage shared parenting.</p> <p>Greens Senate leader Larissa Waters said fairer paid parental leave would benefit the broader economy as well as parents. “The fairer paid parental leave bill will reduce the amount of time women are missing a pay cheque and provide families with more incentives, and more support, to share caring responsibilities more fairly,” she said.</p> <p>Thrive by Five director Jay Weatherill has also backed plans for an increase in paid parental leave from 18 to 26 weeks. Mr Weatherill said a bonus two weeks should be provided if it is shared between parents. And the scheme should expand to 30 weeks of leave by 2025.</p>
<p>“Push for 26 weeks’ paid parental leave in APS emerges in legislation review”</p> <p>The Mandarin 14 February 2022</p>	<p>“At least three groups are calling for the Australian Public Service to offer 26 weeks of paid leave to both partners after the birth or adoption of a child. The Australian Public Service Commission is reviewing parental leave through the now-outdated Maternity Leave Act 1973, with findings to be reported to the federal government early this year”</p>
<p>Dad Days</p> <p>Grattan Institute September 2022</p>	<p>“The income and work tests that people need to pass to get leave should be changed to make leave available to a broader range of families.</p> <p>The income test should be based on household income rather than the mother’s income. This would remove one of the inequities in the current design, where households with male breadwinners are favoured over households with female breadwinners. The income threshold would need to be increased accordingly, and could be set as to exclude a similar proportion of very high-income households.”</p>

<p><u>"Enhancing work-life balance: A better system of Paid Parental Leave"</u></p> <p>KPMG and Business Council of Australia</p> <p>April 2021</p>	<p>"Preferably the scheme should not be means tested and should be used to promote all parents to move to a caring equality model even where one parent earns less than another"</p>
<p><u>"Men at Work: Australia's Parenthood Trap"</u></p> <p>Quarterly Essay, Annabel Crabb</p> <p>September 2019</p>	<p>"[T]he birth mother is still the gatekeeper... which creates some anomalies: if there's a family where a woman earns \$155,000 a year and her husband earns \$40,000, and they decide that the father will be the primary carer, they'll be ineligible for paid parental leave because the woman earns too much to apply, and thus can't transfer the leave to her husband. But in a family where the gender positions are reversed, it's not a problem; the birth mother earns less than the cut-off and is easily eligible,"</p>
<p><u>"The 'infuriating' rule that penalises breadwinner mums and stay-at-home dads"</u></p> <p>Caitlin Fitzsimmons, Sydney Morning Herald</p> <p>26 January 2020</p>	<p>The rule is an "unintended consequence" because when the scheme was designed 10 years ago the notion of stay-at-home fathers were "an afterthought". – Parents at Work chief executive Emma Walsh. New mother Anastasia Smietanka was "infuriated" by the gender inequality. As a barrister in Melbourne she earns over the \$150,000 threshold, while her partner Nick Lovelock, 33, earns half her salary as a management consultant. If the roles were reversed, Ms Smietanka would qualify for the payment. "I was quite outraged that I was being penalised as someone that chose to go back to work and the government just assumed or expected that families would have a father that goes back to work and the mother wouldn't," Ms Smietanka said. "I like to work more, I wanted to go back after six weeks and Nick wanted to stay at home."</p>
<p><u>"'It's bizarre': Calls for 'discriminatory' law which penalises female earners and stay-at-home dads to be re-examined"</u></p> <p>9 News</p> <p>2 December 2021</p>	<p>"This is clearly discrimination in the sense of somebody is being treated less favourably than someone of a different sex because of their sex," – Sydney University Associate Professor Belinda Smith. "I am a woman in STEM, a physicist, fortunate to be well paid. My husband is self-employed on very low income. He was not able to get any support to be a stay-home dad, while a couple in the same situation with genders reversed would have access without question," - Melbourne medical physicist Leah Biffin.</p>

<p>"Rudd Government's parental pay scheme 'unfair to high-income earners'"</p> <p>News.com.au 21 July 2013</p>	<p>"... pregnant women may attempt to manipulate their own income to meet the income test...While this may seem fanciful, we are aware of one instance where a pregnant lawyer negotiated with her employer to defer the payment of a bonus into the following tax year so that she would fall within the income test." - Women Lawyers' Association of NSW. "If you're a woman earning \$160,000 and you are a sole mother or the main breadwinner you don't get any payment, but a woman earning \$40,000 whose partner earns \$160,000 would be eligible - it seems a bit rich." – Sue Price, PwC.</p>
<p>"Like a kick in the teeth': Growing calls to change 'ridiculous' parental leave rule"</p> <p>9 News 12 May 2021</p>	<p>"A payout from her previous employer earlier in the year, including long service leave entitlements, meant her income came in just above the \$150,000 threshold. Mr Baker, who was working as an electrician at the time and earning less than \$150,000, always planned to become a stay-at-home dad when Willow was born. "It sort of made sense with the wage gap between me and Natasha that I would be the one to take time off work. It was a great opportunity for me to stay at home," Mr Baker said.... "I don't see why the man can't be paid.</p> <p>"It's not called mother's leave anymore like it used to be. It's called parental leave.... "It's ridiculous. Everyone is pushing women to go back into the workforce for the greater good and they are not rewarding them for that."</p>
<p>"The inherent sexism in our paid parental leave scheme" Women's Agenda 10 June 2021</p>	<p>If we want diverse businesses, equal pay and for parents to have choice on who stays home with the baby, then we need the government to amend this scheme. Maybe we need a family income test instead, like the one used for the childcare subsidy assessment, but if that meant that less parents would be provided paternity leave the answer is quite simple. Remove gender from the equation and assess the income of the parent wanting to stay home with their child.</p>
<p>Sarah Bailey Petition</p>	<p>Dr. Bailey started an online petition in 2021 calling for changes to be made to the government's parental leave scheme, which received over 5,500 signatures.</p>

Workplace Gender Equality Agency (WGEA)

Insights from the WGEA 2020-21 census on gender equality for employers of 100 or more employees show that: 3 in 5 employers are now offering paid parental leave, the vast majority of those making paid leave equally available for both parents. It also shows that 6 per cent of employers offer more than 18 weeks, although the most common length of paid primary carer's leave is between 7-12 weeks (23% of employers). Large organisations are the most likely to offer paid parental leave, with nearly 9 in 10 employers of 5000+ staff (85%) paying parental leave, compared to 54% of organisations with 250 staff and less.

The latest WGEA dataset is available to view on a new interactive data visualiser tool from February 2022, at data.wgea.gov.au.

6. What is the best option from those you have considered?

Option 1: Status Quo

Under this option, no amendments would be made to the PPL scheme, leaving the current policy parameters (as described in the background section) in place. This option would see the PPL scheme continue to operate closely based on the Productivity Commission's 2009 recommendations and policy settings. Although the current design of the PPL scheme largely operates to support the objectives of the scheme, issues have been identified since commencement of the scheme, as discussed in Section 1. Continuing to operate the scheme under its current design would leave these issues unresolved.

Option 2: Implement the settings announced in 2022-23 March Budget to combine DaPP and PLP into a single payment, add a family income limit of \$350,000 and increase the flexibility of PLP

Option 2 would introduce the below listed changes to the PPL scheme from 2023.

- Create a single payment under the PPL scheme, by combining DaPP with PLP,
- Amend the income test to allow those who do not meet the individual income threshold (currently \$156,647 per annum) to still qualify for payment if they meet a family income threshold of \$350,000 per annum, and
- Increase the flexibility of PLP so that it can be taken in blocks as small as one day at a time with periods of work in between, within two years of the birth or adoption of the child.

The proposed changes would support increased gender equality, by making it easier for fathers and partners to access payment under the PPL scheme, challenging gender inequities in caregiving. Under this option, eligible fathers/partners will be able to access PLP concurrently with paid leave from their employer, where available, in the same way women can under the current scheme.

Creating a flexible PPL scheme seeks to support increased equality of opportunity in relation to both work and care. It will also support increased equality of opportunity in relation to both work and care by allowing more equal access to Government-funded parental leave after the birth of a child.

The health and development objectives of the PPL scheme would also continue to be supported by retaining the current claim hierarchy, which requires that a birth mother claim as a primary claimant first, with the ability to transfer all or part of the entitlement to an eligible father or partner. This allows the birth mother to keep the entitlement if she chooses.

Combining DaPP with PLP would also provide greater opportunities for fathers and partners to be more engaged in the early years of their child's life.

This option would also address criticisms that the current scheme disadvantages families in which the birth parent is the higher income earner in a relationship. Under this option, women who earn over the individual income threshold will be able to qualify for payment, however, only if their combined family income is below the family income threshold, ensuring that the scheme is not extended to parents with a combined high income.

This income test will also support more fathers and partners to access the payment in families in which the father/partner is the lower income earner and intends on taking on primary care of the child.

However, this option does not entirely satisfy the government intentions in amending the PPL scheme. This is partially due to the removal of a 'use it or lose it' component, which may result in a decrease in the number of fathers and partners accessing payment under the scheme. This option also does not provide sufficient gender neutrality in claiming, and unnecessarily

precludes fathers and partners from accessing the scheme due to the income or residency of their partner. Finally, this option does not go far enough in providing flexibility and it does not allow parents to use PPL days concurrently.

Option 3 – Introduce gender neutral claiming, ‘use it or lose it’, concurrency and additional weeks.

Option 3 is the best option. This option would introduce the changes under option 2 as well as those below:

- Introduce gender neutral claiming
- Reserve two weeks of PLP as a ‘use it or lose it’ entitlement for each parent
- Allow parents to take PLP days concurrently
- Increasing the length of the PLP entitlement to 26 weeks.

This option fulfils the government’s objectives in amending the PPL scheme. It provides the additional benefits of a single, fully flexible payment, the introduction of a family income test, and the benefits of the additional policy changes designed to increase equality under the PPL scheme.

Introducing gender neutral claim rules, with parents able to nominate the primary claimant, aims to greatly improve the gender equality of the scheme and remove the signal that the duty to care for a child should fall on women. It will also remedy the anomaly which excludes Australian citizens and permanent residents who are non-birth parents from accessing any PLP due to the residency status of the birth parent. This anomaly has recently received media attention (see section 5), with Australian citizen fathers precluded from accessing any PLP due to the residency status of their partner.

The new proposal also introduces ‘use it or lose it’ for each parent, which signals that both parents should take time away from work to care for a child. This responds to the concerns of stakeholders and advocates, who raised concerns that the 2022-23 March Budget measure’s full flexibility would likely result in birth parents taking all 20 weeks available, to the detriment of men’s engagement in caring for children.

Allowing parents to take PLP days concurrently will further improve the flexibility for parents under the scheme, and complement the flexibility measures contained in the 2022-23 March Budget measure.

The new proposal also responds to consistent calls from stakeholders to increase the length of the scheme.

7. How will you implement and evaluate your chosen option?

Implementation Process

Implementation of the preferred option (option 3) will require significant system changes for Services Australia, who administers the payment. The department would work closely with Services Australia to ensure the system changes accurately reflect changes to the policy, including setting up a working group to identify and mitigate risks and refine micro policy. Both departments have extensive experience in working together to implement changes to the PPL, family assistance and social security systems in general. As PPL can be claimed up to 97 days before the expected date of birth or adoption of a child, system changes would need to be implemented at least 97 days prior to the commencement date of the proposal to ensure that claims received within this 97 day period can be assessed under the new rules. Additionally, the preferred option would require significant changes to the PPL legislation. These changes would be drafted by the Office of Parliamentary Counsel, in close consultation with the department.

Subject to the passage of legislation, the new settings will come into force on 1 July 2023. The pre-claim period will commence on 26 March 2023.

Managing challenges

As set out in section 2, there are a number of challenges to realising the objectives of the amended PPL scheme.

Cultural and societal norms

The inclusion of a 'use it or lose it' period will address public concerns raised following the announcement of the 2022-23 March Budget measure. We do not anticipate significant implementation concerns posed by cultural and societal norms around child care.

Administrative complexities

The increased flexibility of the scheme may pose administrative concerns to small businesses, who will be required to balance employee leave requests against the needs of the business. Following the passage of legislation, Services Australia will make resources available on their website to assist businesses and new parents prepare for and adjust to the new PPL scheme.

Economic concerns

It is likely that some stakeholders will criticise the scheme for not going far enough in terms of providing payment at a higher rate of pay.

A small regulatory burden may be placed on small businesses while navigating the increased flexibility of the scheme. Services Australia will support businesses to manage the new scheme (see above) to minimise any economic impact.

Communication and public awareness

A communication campaign will be developed in consultation with Office for Women and Services Australia to help raise awareness about the proposed changes to the scheme. The advertising component will commence 3 months before the implementation of the scheme to ensure that parents who are expecting or who are planning a pregnancy are aware of the changes to the scheme.

Services Australia has developed a communication strategy to meet their business objectives and communication objectives throughout the roll out and delivery of the new PPL scheme.

Key messages would be delivered through a range of channels. Channel selection will be informed by research, but are likely to include:

- Stakeholder forums
- Stakeholder and intermediary communication
- Advertising
- Information products, including infographics, factsheets and targeted flyers
- Direct communication, including letters provided by Services Australia
- Web content and webinars
- Social media
- Media releases and engagement
- Editorials
- Third party endorsement.

It is proposed that a communication plan could be delivered in phases, and comprise the following key activities:

- Phase 1 – market research, communication strategy and activity development,
- Phase 2 - soft launch of communication activities to stakeholders,
- Phase 3 – launch advertising, public relations and stakeholder communication activities,
- Phase 4 – intensive and direct communication to expecting parents and employers informing them of the changes, and
- Phase 5 – wrap up communication activities and transition to business as usual.

The impact on businesses in terms of administering the changes to the PPL scheme will be minimal. Existing channels of communication with businesses established by Services Australia will continue to be leveraged to assist businesses to manage any challenges in fulfilling the employer role.

Evaluation Process

The new parental leave scheme will be evaluated, to assess parental take-up, how families are using leave, fathers' involvement in care beyond the leave period, and whether the scheme has yielded benefits in terms of family satisfaction, child development, and women's workforce participation.

This evaluation should guide changes to the design of the scheme, such as extending the duration and increasing the rate of pay to drive take-up – in line with best practice internationally – if workforce participation and social and other benefits are evident.

In particular, an evaluation of the scheme should consider whether significant gains could be made from encouraging more fathers to take primary care time, which has been found to facilitate a shift to more equitable co-parenting.

Purpose of the evaluative and data analytic activity

The evaluation and analysis are to support the department to demonstrate accountability, assess performance and develop learnings applicable to PPL scheme. Specifically, to provide insights on whether changes to the PPL scheme are targeted appropriately, and whether the intended support and flexibility optimisation has occurred.

The evaluation will be conducted in close consultation with relevant stakeholders, including the Commonwealth Treasury, Office for Women, and Services Australia, and key advocacy groups (refer to Question 5).

Evaluative Approach

The proposed evaluation approach is a mixed and multiple method approach designed to develop findings through the use of:

- department analytical expertise,
- relevant existing academic and grey literature, and
- experiences of impacted PLP recipients.

The proposed evaluation strategy utilises a rapid sequential component based approach to support the development of early insights from relevant literature to target analytic activity. Analytic activity will support the targeting and design of qualitative data collection from PPL recipients. This design is intended to maximise the complementarity of the three sources of information.

The evaluation will include the following elements:

- **Evaluation planning** will include an evaluation inception meeting, the development of a project plan (evaluation framework, instrument design, and risk and stakeholder engagement strategy), and status reporting. Planning will include revision points to allow for flexibility in approaches and design.
- **HREC Ethics Approval** will be required as the program deals with a variety of clients across multiple sites.
- Consistent with government requirements for procuring entities to undertake research and/or evaluation projects involving human subjects as part of the services, the Provider must:
 - seek and obtain ethical clearance from a Human Research Ethics Committee (HREC) prior to undertaking evaluation activities;
 - not undertake the evaluation activities without that clearance; and
 - adhere to the requirements for the protection of personal information set out in the Privacy Act 1988.
- **Literature Review** to review the paid parental leave literature to target and interpret analytical outputs and contextualise the wider evaluative activity.
- **Data collection and analysis** will include a mixed method (qualitative and quantitative) approach to better develop insights regarding PPL payment targeting, levels of support and optimisation of flexibility optimisation has occurred. This includes primary data (interviews with key stakeholders including recipients) and analysis of secondary data (administrative data, with the inclusion of other relevant reviews).
- **Evaluation reporting** will include a presentation of findings and report. Reporting will inform department learning, and support program accountability and performance assessments to support decision making and identify future improvements and opportunities for the department.

Justification

Support the Department of Social Services to meet its accountabilities and obligations under the Public Governance, Performance and Accountability (PGPA) Act 2013 and the enhanced Commonwealth Performance Framework, including maximising learning from the measure.

Undertaking the evaluation activities detailed in this costing will maximise department learnings from these innovative measures and provide information to demonstrate accountability and assess payment targeting.

The proposed methodology (and associated costs) reflects recent 'lessons learnt' from a variety of sources regarding best approaches to capitalise on internal department capability and external Supplier independence. This methodology will maximise the value extracted from both.

References

- Baker, M., Milligan, K. (2008) 'Maternal employment, breastfeeding, and health: evidence from maternity leave mandates. *Journal of Health Economics*. 27 (4), pp.871–887;
- Bitá, Natasha (2013) Rudd Government's parental pay scheme 'unfair to high-income earners', *News.com.au*, Link: [Rudd Government's parental pay scheme 'unfair to high-income earners' | news.com.au — Australia's leading news site](#)
- Chapman, B & Higgins, T (2009) An Income Contingent Loan for Extending Paid Parental Leave, *Australian Journal of Labour Economics*;
- Crabb, Annabel (2019) Men at Work: Australia's Parenthood Trap, Quarterly Essay, September 2019. Link: [Men at Work | Quarterly Essay](#)
- Department of Social Services (2012) Paid Parental Leave Evaluation, Phase 1 Report, University of Queensland. Link: [op44.pdf \(dss.gov.au\)](#)
- Department of Social Services (2013) Paid Parental Leave Evaluation, Phase 2 Report, University of Queensland. Link: [Project Title here \(dss.gov.au\)](#)
- Department of Social Services (2014) Paid Parental Leave Evaluation, Phase 3 Report, University of Queensland. Link: [op44.pdf \(dss.gov.au\)](#)
- Department of Social Services (2014) Paid Parental Leave Final Evaluation Report, University of Queensland. Link: [op44.pdf finalphase4_report_6_march_2015_0.pdf \(dss.gov.au\)](#)
- Fitzsimmons, Caitlin (2020) The infuriating rule that penalises breadwinner mums and stay-at-home dads. *Sydney Morning Herald*, Link: [The 'infuriating' rule that penalises breadwinner mums and stay-at-home dads \(smh.com.au\)](#)
- Grattan Institute (2021) Dad Days: How more generous gender-equal parental leave could improve the lives of Australian families. Report No. 2021-11, September 2021. Link: [Dad days: How more gender-equal parental leave could improve the lives of Australian families \(grattan.edu.au\)](#)
- Grierson, Laura (2021) The inherent sexism in our paid parental leave scheme. *Woman's Agenda*, 11 June 2021. Link: [The inherent sexism in our paid parental leave scheme \(womensagenda.com.au\)](#)
- Hewitt B, Strazdins L, Martin B. 'The benefits of paid maternity leave for mothers' post-partum health and wellbeing: Evidence from an Australian evaluation. *Soc Sci Med*. 2017 Jun; 182:97-105.
- Hewitt B, Strazdins L, Martin B. (2017) 'The benefits of paid maternity leave for mothers' post-partum health and wellbeing: Evidence from an Australian evaluation. *Soc Sci Med*. 182:97-105.
- Kalb, G.; Thoresen, T.O. (2010), 'A Comparison of Family Policy Designs of Australia and Norway using Microsimulation Models', *Review of Economics of the Household*, 8, 255–87;
- Kalb, G. (2018), 'Parental Leave and Female Labour Supply: A Review.' *Economic Record*, Vol 94. No. 304. pp. 80-100.
- KPMG (2021) Enhancing Work-Life Balance: A better system of Paid Parental Leave, April 2021. Link: [Enhancing work-life balance \(assets.kpmg\)](#)
- McPherson, Emily (2021) 'It's bizarre': Calls for 'discriminatory' law which penalises female earners and stay-at-home dads to be re-examined, 2 December 2021, 9 News, Link: [Paid Parental Leave: Calls for 'discriminatory' law which penalises female breadwinners and stay-at-home dads to be re-examined, 'It's bizarre' \(9news.com.au\)](#)
- McPherson, Emily (2021) 'Like a kick in the teeth': Growing calls to change 'ridiculous' parental leave rule. 12 May 2021, 9 news. Link: [Paid parental leave pay inequality: Growing calls to change 'ridiculous' rule, 'Like a kick in the teeth' \(9news.com.au\)](#)

OECD (2016) 'Key Characteristics of Parental Leave Systems OECD'. Directorate of Employment, Labour and Social Affairs and The Productivity Commission (2009) 'Paid Parental Leave: Support for parents with newborn children' (Report No. 47);
Thevenon, O. & Solaz, A. (2013) 'Labour Market Effects of Parental Leave Policies in OECD Countries', OECD.
Thevenon, O. & Solaz, A. (2013), 'Labour Market Effects of Parental Leave Policies in OECD Countries', OECD.
WHO & UNICEF (2019) 'Maternity Leave Legislation in Support of Breastfeeding—case studies around the world'.