



Australian Government
Department of Social Services

Committee Secretary
Senate Standing Committees on Community Affairs
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CANBERRA ACT 2600

Dear Secretary

SUBMISSION TO COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Thank you for the opportunity to make a submission to the Community Affairs Legislation Committee inquiry into the Paid Parental Leave Amendment (Improvements for Families and Gender Equality) Bill 2022, referred for inquiry on 1 December 2022.

The Department of Social Services welcomes the opportunity to provide additional assistance or information that is required by the Committee to support their deliberations.

Yours sincerely

Matt Flavel
Deputy Secretary
Department of Social Services

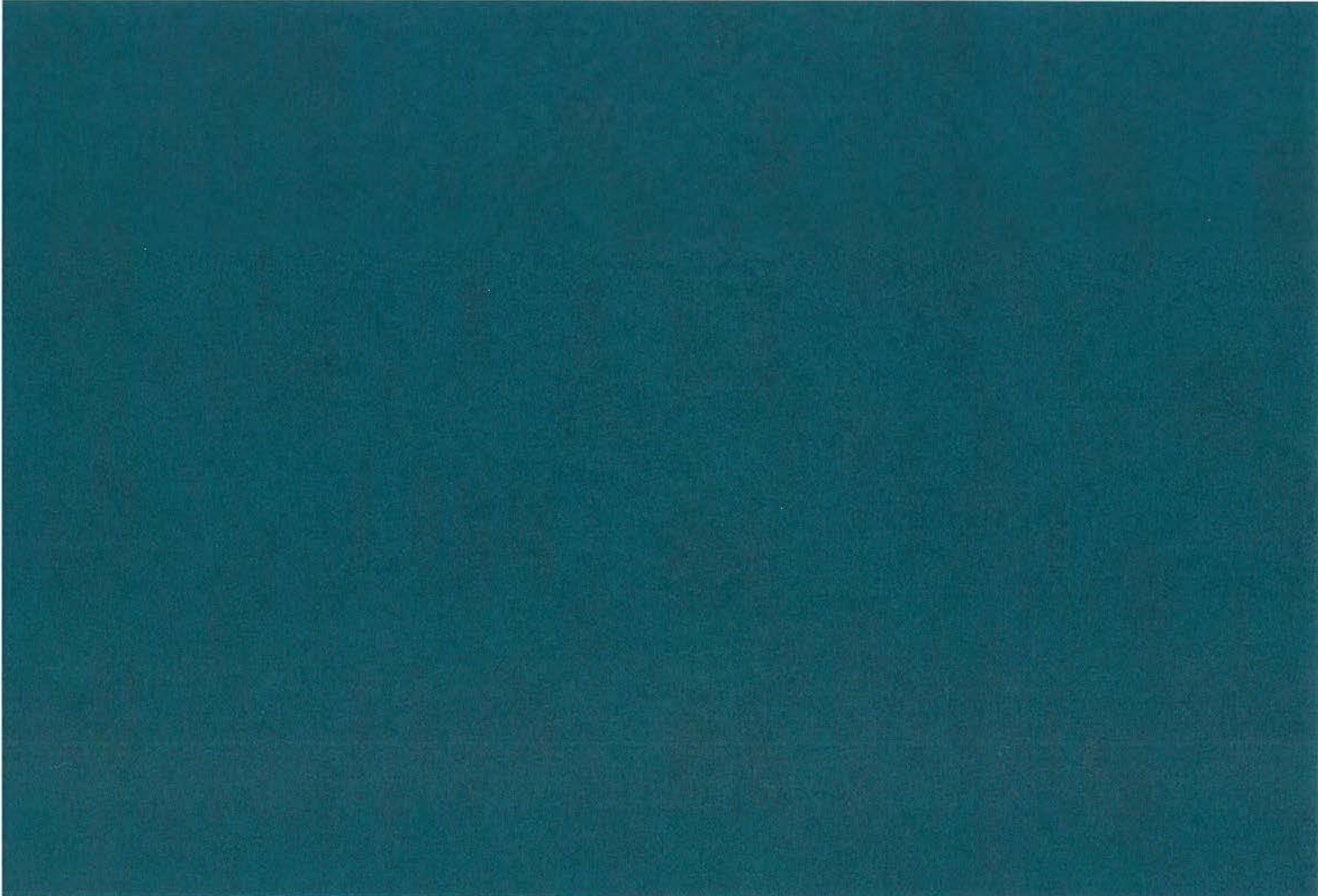
23 January 2023



Australian Government
Department of Social Services

Submission to Community Affairs Legislation Committee

Paid Parental Leave Amendment (Improvements for Families
and Gender Equality) Bill 2022



1. Introduction

As part of the 2022-23 October Budget, the Government announced a range of beneficial changes to the Paid Parental Leave (PPL) scheme to improve the flexibility and gender neutrality of the scheme. The Paid Parental Leave Amendment (Improvements for Families and Gender Equality) Bill 2022 (the Bill) was introduced into Parliament on 30 November 2022 to give effect to the first tranche of these changes.

Currently, the PPL scheme is comprised of two payments: Parental Leave Pay (PLP) and Dad and Partner Pay (DaPP).

PLP provides payment of up to 18 weeks at a rate based on the national minimum wage (currently \$812.45 per week) to eligible working primary carers of a newborn or recently adopted child. This is comprised of a 12 week PPL period and six weeks of flexible PPL.

The PPL period must be taken as a single block before returning to work, within 12 months of the birth or adoption. The PPL period can be transferred between parents once.

Flexible PPL can be taken one day at a time with periods of work in between within two years of the birth or adoption. Flexible PPL days can be transferred back and forth between parents.

A birth parent or adoptive parent must claim PLP first, as a primary claimant. A father or partner can claim PLP as a secondary claimant. A secondary claimant can only receive PLP if both they and the primary claimant meet certain eligibility criteria. PLP can be taken at the same time as employer paid leave.

DaPP provides payment of up to two weeks at a rate based on the national minimum wage to eligible working fathers or partners caring for a newborn or recently adopted child. DaPP must be taken in a single two-week block. It cannot be taken at the same time as employer-paid leave.

In order to be eligible for PLP or DaPP, a person must generally meet a work test, income test and residency test.

More information about the PPL scheme, including details of the eligibility requirements, can be found at section 6.

The changes introduced by the Bill are:

1. **A single 20 week entitlement:** combining the existing two weeks of DaPP with the 18 weeks of PLP.
2. **Increased flexibility:** eligible claimants will be able to access the entire entitlement one day at a time, with periods of work in between, up until the child's second birthday.
3. **Concurrency:** claimants may use up to 10 days of PLP concurrently.
4. **Family income test:** introduction of a family income test of \$350,000, which will operate in addition to the existing individual income test (currently \$156,647).

5. **Gender neutral claiming:** either parent may claim PLP first. Currently, a birth parent must claim PLP first.
6. **Reserved periods:** two weeks of PLP will be reserved for each parent on a 'use it or lose it' basis.

2. Rationale for the changes

The changes to the PPL scheme will provide greater flexibility in how families can use the PLP entitlement, encourage fathers and partners to take time off work after a birth or adoption, and expand access to the scheme, including for families where the birth parent is the higher earner and residentially qualified fathers and partners.

A single 20 week entitlement

The Bill combines DaPP with PLP, expanding PLP from 18 weeks to 20 weeks. This change will allow both parents to access the same payment under the PPL scheme. It will enable all parents to receive payment at the same time as employer-provided paid leave, which is currently allowed for PLP but is not an option for parents accessing DaPP. This change will also make it easier for fathers and partners to access more than two weeks of payment under the PPL scheme.

Increased flexibility

The Bill makes improvements to the PPL scheme to give families more flexibility to balance their work and caring responsibilities in a way that best suits their needs. Under the amendments, the PPL period will be removed and parents will be able to take the entire PLP entitlement in blocks as small as a day at a time, with periods of work in between, within two years of the child's birth or adoption. This will allow parents to use their entitlement in the way that suits them best.

For instance, parents may use their PLP to support a graduated return to work, going back to work part-time after a block of leave, or taking a day a week off work when the other parent returns to work.

Claimants will still be able to take their entitlement in a continuous block if they choose to do so.

Family income limit

A family income test of \$350,000 will be added to complement the individual income test (currently \$156,647). A claimant whose income exceeds the individual income test may be eligible for PLP if they meet the family income test. Single parents may be assessed under either test.

This change addresses criticisms of the current PPL scheme, which have identified that birth parents with incomes above the individual income limit are precluded from accessing PLP, representing unequal treatment compared to families where the father or partner is the higher earner. The new family income test is expected to result in around 2,200 additional birth parents becoming eligible for PLP.

Gender neutral claiming

The Bill will also remove the current requirement that the first claimant must be the birth parent (or adoptive parent). This will remove the assumption that birth parents will be responsible for the majority of care of their child and will make it easier for fathers and partners to claim.

The terms “primary” and “secondary” claimant will be removed, and parents of a child will both be able to claim as “PPL claimants”. Each parent will be able to claim the portion of the PLP entitlement that they wish to take.

To mitigate the risk that fathers or partners may take PLP against the wishes of a birth parent, including as a form of coercive control or financial abuse, birth parents will need to grant permission for other carers of the child to claim PLP days.

Under the current scheme, eligible fathers and partners are unable to access PLP if the birth parent does not meet the income test, residency test or is serving a newly arrived residents waiting period. Under the changes, eligible fathers and partners will be able to access PLP if the birth parent is not residentially qualified, is serving a newly arrived residents waiting period or exceeds the individual and family income tests.

Reserved periods

Two weeks of the 20 weeks of PLP will be reserved for each parent on a ‘use it or lose it’ basis. This will apply to claimants who are coupled at the time of their claim.

The reserved period has been introduced to PLP based on evidence that reserving periods specifically for men actively increases their engagement in care. Research shows that when parents more evenly share the care of their child, women return to work earlier and work for more hours. This is crucial to improving women’s economic security and workforce participation, and supporting gender equality.

Claimants who are not partnered when they claim PLP will be able to access a maximum of 20 weeks of PLP. The Bill includes provision for the Paid Parental Leave Rules 2021 to prescribe circumstances in which claimants who are partnered at the time of their claim can receive up to 20 weeks of PLP, which may include, for example, the death of a partner, or situations of family and domestic violence.

3. Impacts

Over 180,000 parents will benefit from these changes each year. PPL scheme data and demographics is at **Attachment A**.

This includes approximately 2,200 additional birth parents who will be able to access PLP due to the introduction of the family income limit. This will treat families with the same household income in the same way, regardless of the gender of each earner and the distribution of income within the household.

Example: mother earning above the individual income limit

Carla and Tom are expecting their first child in September 2023. Carla's annual income is \$180,000 and Tom's is \$75,000. They both meet the work and residency tests.

Current PPL scheme

Carla's income exceeds the individual income test, and therefore she would be ineligible for PLP. Tom may access two weeks of DaPP, but would not be able to access any PLP as Carla does not meet the income test.

New PPL scheme

Tom's income is below the individual income threshold so he satisfies the income test. Carla's income exceeds the individual income test, but Carla and Tom's combined income is under the family income threshold, so Carla also satisfies the income test.

An estimated 2,600 fathers and partners who meet eligibility criteria when the birth parent does not qualify for payment because they do not meet the income test, residency test or are serving a newly arrived residents waiting period will be now able to access PLP.

Example: eligible non-birth parent, ineligible birth parent

Alex and Sam are excited to welcome their new baby in August 2023. Alex is the birth parent, and is still serving a newly arrived resident waiting period. Sam is an Australian citizen. They both meet the work and income tests.

Current PPL scheme

Alex is serving a newly arrived residents waiting period, and is therefore ineligible for PLP. Sam may access two weeks of DaPP, but cannot access any PLP as Alex is not eligible.

New PPL scheme

Alex is serving a newly arrived residents waiting period so will not be eligible for PLP. Under the new gender neutral claim rules, Sam will be able to claim PLP and receive up to 18 weeks of PLP despite Alex's ineligibility.

Businesses will benefit as birth parents will be supported to maintain a connection with their workplace, and will not lose eligibility because they have returned to work.

Example: Taking PLP flexibly alongside performing paid work

Riya and Roberta are expecting their child in December 2023. They both meet the PLP eligibility criteria. They both work full time, and Riya intends to take the majority of time off to care for their child.

Current PPL scheme

Riya can access 18 weeks of PLP, comprised of a 12 week continuous period and six weeks of flexible PPL. She may transfer some or all of this to Roberta. Roberta may access two weeks of DaPP.

Roberta may not use her DaPP entitlements flexibly, and must be on unpaid leave to access it.

Riya may not return to work after 10 weeks unless she transfers two weeks of her continuous PPL period to Roberta, who must also take this as a block before returning to work.

New PPL scheme

Riya intends to take 10 weeks of PLP immediately and then return to work, using four weeks of PLP one day a week for the next 20 weeks, to support a part time return to work.

Roberta intends to take six weeks of paid parental leave provided by her employer immediately, and then use the remaining six weeks of PLP one day a week (on alternative days to Riya) for the next 30 weeks, to support a part time return to work.

Summary

	New PPL scheme – changes to claimants
Family Income Test	+2,200 birth parents who earn above the individual income threshold
Gender neutral claiming	+ 2,600 fathers and partners

4. Financial impact

The package of PPL measures announced as part of the 2022-23 October Budget will cost \$531.6 million over four years from 2022-23 (and \$619.3 million per year ongoing). This funding has been provided in the Budget. The Bill implements the first tranche of these changes.

5. Implementation

Subject to the passage of legislation, some provisions of the Bill will commence from 26 March 2023. These provisions will enable parents with an expected date of birth or adoption on or after 1 July 2023 to submit a pre-birth claim up to 97 days before the expected date of birth or adoption and be assessed under the new PPL scheme. The application and transition provisions in Schedule 3 of the Bill allow these claimants to be assessed under the new rules.

Subject to the passage of legislation, Services Australia will make changes to its existing service delivery infrastructure to accommodate birth parents who lodge a pre-birth claim from 26 March 2023 to ensure they have access to the new arrangements when their child arrives. Other parents, such as fathers and partners, will be able to claim from 1 July 2023 onwards.

From 1 July 2024, the Government will start expanding the scheme to 26 weeks by 2026. These changes to the length of the scheme are not included in the current Bill and will be implemented through a subsequent tranche of legislation.

The Women's Economic Equality Taskforce (WEET), comprising independent experts and chaired by Sam Mostyn AO, will look at the available evidence and examine the optimal model for 26 weeks to deliver the best outcome for families and encourage more shared parenting. This advice will be considered by Government as part of the development of the second stage of legislation.

Employer Role

The changes to the PPL scheme will have minimal impact on the employer role in the scheme. Employers will continue to be required to make Government-funded PLP payments to their eligible employees who have been employed for at least 12 months. The changes do not grant employees any additional rights to take leave from their employment. Employees will still need to request time off work from their employers to take a day of PLP.

Australian employees are covered by the National Employment Standards, which establish minimum entitlements to unpaid parental leave for eligible employees. This includes the right to access up to 24 months of unpaid parental leave in agreement with their employer, and the right to return to their job following parental leave.

Employers will only be required to make payments when employees take their PLP in a continuous block of at least 40 consecutive weekdays; employers will not be required to provide payment when an employee uses their PLP days flexibly. This is consistent with current arrangements.

Evaluation

The Government will conduct an evaluation of the amended PPL scheme. The evaluation will complement and/or build on evidence provided by WEET (see above) and comprise a post-implementation review to assess whether the scheme has been successfully implemented.

It will also identify the short-term outcomes experienced by parents and employers, including whether the scheme is increasing gender equality in the care for children after a birth or adoption. The latter will provide indication of whether greater gender equality outcomes may be achieved in the longer term, e.g. 10 years. Overall, the evaluation will inform potential improvements to the scheme and future policy directions.

6. Background and International comparisons

Background

The PLP scheme commenced on 1 January 2011 by the *Paid Parental Leave Act 2010*. This provided eligible working parents of children born or adopted on or after 1 January 2011 with 18 weeks of government-provided payment at a rate based on the national minimum wage (at the time \$569.90, currently \$812.45 per week). The 18 weeks were required to be taken in a single continuous block, before returning to work.

From 1 January 2013, DaPP was introduced for eligible new fathers and partners.

From 1 July 2020, the *Paid Parental Leave Amendment (Flexibility Measures) Act 2020* made changes to the PPL scheme to enable PLP recipients to take a portion of their payment flexibly, splitting PLP into a 12-week PPL period and six weeks of flexible PPL.

The PPL scheme is funded entirely through general taxation revenue, rather than through a levy or employer/employee contributions.

The objectives of the PPL scheme are to signal that taking time out of the paid workforce to care for a child is part of the usual course of life and work for both parents and promote equality between men and women and balance between work and family life.

The current PPL scheme

Currently, PLP provides 18 weeks of financial support to primary carers to allow them to take time off work to care for their child, enhance the health and development of mothers and children, encourage women's workforce participation and provide carers with flexibility to balance work and family life.

DaPP provides two weeks of financial support to fathers and partners to increase their time off work after a birth or adoption, create opportunities for bonding and allow them to take a greater share of caring.

The PPL scheme is based largely on the recommendations of the 2009 Productivity Commission report on support for parents with newborn children. Based on these recommendations, PLP is currently mainly intended to support birth parents. Birth parents must claim PLP first and may transfer some or all of the entitlement to another parent if both parents are eligible. Birth parents cannot receive DaPP.

Eligibility

In order to be eligible for payment under the PPL scheme, a person must meet the work test, income test, residency test and not be serving a newly arrived residents waiting period without an exemption.

To meet the work test a person must have:

- worked for at least 10 months of a 13 month work test period,
- worked for at least 330 hours in that 10 month period, and
- no more than a 12 week gap between two working days.

To meet the income test a person must:

- have an individual adjusted taxable income that does not exceed the income limit in the financial year prior to the date of birth or adoption, or the date of claim, whichever is earlier.

To meet the residency requirements a person must be:

- an Australian resident:
 - an Australian citizen;
 - the holder of a permanent visa; or
 - an Special Category Visa (SCV) holder who is a protected SCV holder;or
- an SCV holder who is residing in Australia, or
- the holder of a visa determined by the Minister and either the person is in Australia or is temporarily absent from Australia for not more than six weeks, and the absence is an allowable absence in relation to special benefit.

International comparisons

Australia has a hybrid paid parental leave system, in which employers may offer paid and/or unpaid parental leave to new parents, in addition to the payments provided under the Government-funded PPL scheme.

This system is different to many of Australia's Organisation for Economic Co-operation and Development (OECD) counterparts, who have contributory paid parental leave schemes, requiring employers and/or employees to make contributions in order to access leave. Due to this difference in funding and structure, it is difficult to compare Australia's system to international examples.

The policy changes being implemented by this Bill have been informed by examples of best practice internationally, with the objective of improving women's workforce participation and engaging more men in care. Research shows that fathers who take parental leave are more likely to perform childcare tasks, and this trend continues throughout the child's life. When fathers participate more in childcare, "*children enjoy*

higher cognitive and emotional outcomes and physical health". In turn, men report greater mental and physical health, as well as greater life satisfaction.¹

If paid parental leave schemes do not provide specific incentives for men to take leave, women often leave the workforce for longer and increase their time spent in childcare and housework, while men maintain their ties to paid work. This leads to a different investment in paid and unpaid skill sets, establishing a gendered division of household labour, which largely persists throughout the child's life.²

Across observations from OECD states, parental leave of longer than a year appears to damage prospects of future earnings and career potential for new parents, and may make it more likely that parents will never reengage with the workforce, even when employment rights are well protected.³

Short parental leave entitlements may incentivise parents to reengage with the labour market earlier, while long parental leave schemes have been criticised for reinforcing the narrative that young children should be cared for by their mothers.⁴

Policies reserving parental leave specifically for fathers "are motivated by the idea that active fathering not only benefits child development and improves men's life satisfaction, but can promote gender equality."⁵ Men are more likely to take paid parental leave if encouraged by periods of "quarantined leave";⁶ quarantining leave periods for fathers consistently increase men's participation in leave by between 4% and 32%.⁷ In Iceland and Sweden, introducing a quarantined father's leave has led to a doubling of the number of parental leave days taken by men, and led to a tripling of men taking parental leave in Korea between 2007 and 2014.⁸

Attachments:

Attachment A – Selected data and demographics

¹ OECD; "Fathers' childcare and parental leave policies: Evidence from Western European Countries and Canada" Reich et al. Hamburgisches WeltWirtschaftsinstitut (HWWI) Research Paper 115, 2012 (Reich).

² "Reserving Time for Daddy: The Short and Long-Run consequences of Father's Quotas" Ankita Patnaik, Cornell University, 2014 (Patnaik).

³ OECD; Reich.

⁴ "How Long Should Parental Leave Be? Attitudes to Gender Equality, Family, and Work as Determinants of Women's and Men's Parental Leave in Sweden", Ann-Zofie Duvander, Journal of Family Issues, 2014 (Duvander).

⁵ Patnaik.

⁶ OECD.

⁷ Reich; Patnaik.

⁸ OECD; Heymann.

Attachment A: Selected data and demographics

Figure 1: Parental Leave Pay recipients and expenditure over the last 10 years (payment commenced 1 January 2011)



Figure 2: Dad and Partner Pay (DaPP) recipients and expenditure over the last 10 years (payment commenced 1 January 2013)



Table 1: General demographics of DaPP and PLP recipients, 2021-22 FY

DEMOGRAPHICS 2021-22		DaPP		PLP	
Relationship status	Partnered	95,598	(97.7%)	169,158	(94.6%)
	Single (includes Unknown)	2,265	(2.3%)	9,620	(5.4%)
Indigenous		2,278	(2.3%)	4,074	(2.3%)
Culturally and linguistically diverse		22,972	(23.5%)	36,334	(20.3%)
Average age (all recipients for DaPP and all females for PLP)		33 years		32 years	
Pre-birth claim		41,886	(42.8%)	113,569	(63.5%)
By relationship	Biological father/mother	96,593	(98.7%)	177,621	(99.4%)
	Partner of birth mother	955	(1.0%)	940	(0.5%)
	Adoptive or legal parent	315	(0.3%)	217	(0.1%)

Table 2: Income profile of DaPP and PLP recipients, 2021-22 FY

Income 2021-22		DaPP		PLP	
Recipient income (Adjusted Taxable Income)	Average income	\$75,258		\$64,615	
	Median Income	\$72,648		\$60,000	
	\$20,000 and under	2,223	(2.3%)	10,302	(5.8%)
	\$20,001 to \$40,000	8,598	(8.8%)	32,468	(18.2%)
	\$40,001 to \$60,000	21,989	(22.5%)	46,757	(26.2%)
	\$60,001 to \$80,000	25,836	(26.4%)	36,415	(20.4%)
	\$80,001 to \$100,000	19,220	(19.6%)	26,132	(14.6%)
	\$100,001 to \$120,000	11,527	(11.8%)	15,833	(8.9%)
	\$120,001 to \$140,000	6,609	(6.8%)	8,138	(4.6%)
	\$140,001 to \$150,000	1,727	(1.8%)	2,558	(1.4%)

Table 3: Payment choice and transfers of PLP between parents

2021-22 (as at 30 June 2022)			2021/22	
PLP payment choices made for children born on or after 1 July 2020	Consecutive 18 week period (finished) ⁴		116,314	65.1%
	Consecutive 18 week period (still on)		45,483	25.4%
	Received PLP Period and/or Flexible PPL	Flexible completed	5,555	
		Flexible commenced	2,755	
		Flexible not started	7,696	
	Total	PLP who opted for flexi PPL	16,006	9.0%
	Grand Total	PLP recipients	178,778	
	Transfers to secondary claimant	Average PLP period duration	10.6	
		PLP period – Full transfer	286	
		PLP period – Partial transfer	312	
		TOTAL transfers of PLP period	598	
		Flexible commenced/completed	455	
		Permission given not started	11	
	Total	Taken/available PPL Flex	466	

Table 4: Employer Role

Employer role 2021-22		PLP	
Payment of PLP	Recipient paid by employer	112,098	(62.7%)
	Recipient paid by Services Australia	66,680	(37.3%)
Total employers		31,377	
Employer size	Small	11,923	(38.0%)
	Medium to large (20+ employees)	19,382	(61.8%)
	Unknown	72	(0.2%)

Note – all DaPP is paid by Service Australia

Table 5: Gender profile of PLP and DaPP recipients, 2021-22 FY

	Female No.	Male No.	Unknown No.	Total No.	Female %	Male %	Unknown %	Total %
PLP	177,770	1,005	5	178,780	99.4%	0.6%	0.0%	100.0%
DaPP	705	97,150	5	97,865	0.7%	99.3%	0.0%	100.0%
Total	178,475	98,155	10	276,645	64.5%	35.5%	0.0%	100.0%

Note: To protect individuals' privacy, all cells have been rounded to the nearest 5. This may result in non-additivity for some totals.

Data Source

- Services Australia administrative data. PPL Flexible data provided directly by Services Australia.
- Expenditure data is from relevant budget papers/DSS annual reports

Notes

- PLP - Population data is parents who started receiving PLP in the financial year.
- DaPP - Population data is fathers or partners who received DaPP in the financial year.