



Australian Government
Department of Social Services

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Dear Senator Askew

**SUBMISSION TO SENATE COMMUNITY AFFAIRS LEGISLATION
COMMITTEE**

Thank you for the opportunity to make a submission to the Senate Community Affairs Legislation Committee Inquiry into the Paid Parental Leave Amendment (Flexibility Measures) Bill 2020, referred for inquiry on 6 February 2020.

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

6 March 2020

Senate Community Affairs Legislation Committee - Paid Parental Leave Amendment (Flexibility Measures) Bill 2020

1. Introduction

Overview of the changes and benefits from increasing the flexibility of the current paid parental leave scheme

The Paid Parental Leave Amendment (Flexibility Measures) Bill 2020 (the Bill) introduces beneficial changes to the Paid Parental Leave (PPL) scheme aimed at better supporting working mothers and families and will allow them to access their payment more flexibly.

From 1 July 2020, families will have the choice to split their Parental Leave Pay (PLP) into multiple blocks of leave over a two-year period.

Under the current scheme eligible parents can access up to 18 weeks of PLP in a continuous period at a rate based on the national minimum wage (currently \$740.60 per week or \$13,330.80 for 18 weeks). Currently, the 18 weeks must be used within the first 12 months after the birth or adoption of their child and before the parent has returned to work. The primary claimant (usually the birth mother) is able to transfer all or part of their PLP to an eligible partner but this still needs to be taken in a continuous period within the first 12 months after birth or adoption. Once a primary claimant has transferred their PLP entitlement they are no longer able to access PLP.

The changes proposed in this Bill aim to increase flexibility by introducing:

- PPL period - an initial 12-week block of entitlement to be used within the first 12 months after the birth or adoption of a child;
- Flexible PPL - up to six weeks (30 days) that can be used at any time within the first two years; and
- Enhanced transfers - to allow claimants to make more than one transfer to an eligible partner.

Parents will still be able to take their PLP entitlement in a continuous 18-week block if they choose to do so, but the changes will offer more options for parents by allowing them to keep up to six weeks of their entitlement to be used within the first two years after the birth or adoption.

The total period of time available will remain 18 weeks and there are no changes to the rate of payment. The Bill does not increase or decrease PPL entitlements, rather, it provides families with more options to access PLP in a way that best suits their individual circumstances.

Attachment A provides a diagram that highlights some examples of how families will have more options about how to structure their PPL entitlement.

The rules around transferring Flexible PPL days will be changed to allow greater flexibility for families to share the six weeks in a way that suits them best.

The changes to the PPL scheme will help thousands of new parents who currently return to work before they have claimed and used all of their PLP and lose valuable time with their young children. Under the new changes, these families will still be able to access up to six weeks of Flexible PPL before their child turns two. In particular, these changes will support self-employed women and small business owners who cannot afford to leave their businesses for 18 consecutive weeks.

Attachment B provides a summary table of the key changes between the current and flexible PPL schemes.

2. Rationale for the changes

Announced as part of the Women's Economic Security Package

The Women's Economic Security Statement announced on 20 November 2018 aimed to improve women's workforce participation, economic independence and earning potential. The Flexible PPL measure was included in this announcement and is intended to make returning to work more flexible for working women and increase flexibility for families.

The Women's Economic Security Statement also included changes to the PPL scheme work test, which commenced from 1 January 2020. The Bill builds on the amendments to the work test and introduces further key aspects of the Women's Economic Security Package announced in the 2018-19 Mid-Year Economic and Fiscal Outlook.

More choice about how to balance work and family responsibilities

The Bill makes important improvements to the PPL scheme that gives families more flexibility to balance work and caring responsibilities in a way that best suits their needs. Parents will have the option to continue to access their entitlement in an 18-week block, or they can choose to split their entitlement and access their Flexible PPL at a later time.

For many small business owners and self-employed women, 18 weeks is a significant amount of time to be away from their work. Under these changes, mothers will be able to take an initial period of 12 weeks PPL before returning to run their business. They will then be able to choose when to take the remaining six weeks of their entitlement before their child turns two, at a time that suits their personal and business needs, to facilitate choice and flexibility when balancing work and family.

The increased flexibility will also make it easier for mothers who are eligible for PPL to transfer entitlement to eligible partners who take on the role of primary carer, where it suits the family's circumstances.

3. Impacts

Expected customer impacts

Around 178,000 primary carers (mainly mothers) received PLP in the 2018-19 financial year with around 1.3 million primary carers having received PLP since the introduction of the scheme in 2011 (as at September 2019).

Under the new arrangements, around 4,000 parents are expected to take their PLP flexibly each year. The estimate is based on Services Australia administration data looking at the number of parents who:

- currently return to work before they have received their full PLP entitlement
- return to work before claiming PLP
- receive less than their full entitlement before their child turns one.

Example: Self-employed mother who returns to work after 12 weeks

Bella is self-employed and works five days per week. She takes 12 weeks PLP within the first 12 months following the birth of her child, before returning to work three days per week.

Existing policy

Bella would lose entitlement to her remaining six weeks of PLP because she returned to work and did not take her full entitlement in a continuous 18-week block.

Flexibility changes

Bella could be paid her remaining six weeks (30 days) of PLP flexibly, on the two days per week that she is not working for up to 15 weeks and could do so any time within the first two years after the birth of her child. In this way, the scheme will support Bella to balance parental responsibilities with returning to work.

The changes mean that Bella would now be eligible for an additional six weeks of PLP at a rate of \$740.60 a week or a total increase in support of \$4,443.60 (rates correct as at February 2020).

Example: Returning to work before claiming

After Stephanie has a baby she takes three months leave while receiving employer-provided parental leave. Stephanie then returns to work for three months while her partner stays home with the baby. Stephanie then arranges to have an additional five months unpaid leave from her employment. She makes a first claim to receive PLP for this period.

Existing policy

Stephanie would not be entitled to any PLP as she returned to work after the birth of her child and before seeking to receive PLP. Stephanie would also not be able to transfer PLP to her partner at this point as she has not met the eligibility criteria so has no entitlement to transfer.

Flexibility changes

Stephanie would be entitled to six weeks (30 days) of Flexible PPL to be used any time before her child's second birthday, as parents will be able to return to work without losing access to their Flexible PPL entitlement. Stephanie would also be able to share the Flexible PPL with her partner provided they also met the eligibility requirements.

The changes mean that Stephanie would now be eligible for six weeks of PLP at a rate of \$740.60 a week or a total increase in support of \$4,443.60 (rates correct as at February 2020).

Example: Returning to work before full 18 weeks

When Carol is pregnant with her child she arranges with her employer to have 14 weeks of unpaid leave, intending to return to work after this period to lead a special project in her workplace.

Existing policy

Carol would be entitled to 14 weeks of PLP but would lose eligibility for four weeks of the 18-week entitlement when she returns to work.

Flexibility changes

Carol could receive 14 weeks of PLP after the birth of her child, and would retain eligibility for the remaining four weeks of her entitlement after her return to work. Carol could choose to take these four weeks at any time before her child's second birthday, or she could choose to transfer some or all of the entitlement to her partner (provided they also meet the eligibility criteria).

The changes mean that Carol would now be eligible for four weeks of PLP at a rate of \$740.60 a week or a total increase in support of \$2,962.40 (rates correct as at February 2020).

Example: Claiming within 18 weeks of their child's first birthday

Bethany takes 18 months leave from her work after the birth of her first child. She arranges a combination of maternity leave and unpaid leave with her employer and also intends to claim PLP. Three months before her child's first birthday, Bethany remembers to submit her claim for PLP.

Existing policy

Bethany would be entitled to 12 weeks of PLP. She would lose eligibility for the remaining six weeks of her entitlement because currently the full 18 weeks must be taken before the child's first birthday.

Flexibility policy

Bethany would be entitled to the full 18 weeks of PLP. She could choose to take the whole 18 weeks continuously, or she could choose to take 12 weeks initially and save six weeks of her entitlement for using later and before her child turns two.

The changes mean that Bethany would now be eligible for an additional six weeks of PLP at a rate of \$740.60 a week or a total increase in support of \$4,443.60 (rates correct as at February 2020).

How the changes will support and help promote partners taking on caring responsibilities

Under current arrangements, PLP can be transferred from the child's mother to their partner, if they also meet the eligibility requirements for PLP and take on primary care of the child. A partner can receive all of the PLP or some if they receive the payment in a continuous block following the mother's PPL period. Once a PLP entitlement has been transferred, it cannot be transferred back. While these same rules will continue to apply for the 12-week PPL period under the new measure, mothers will have more flexibility in how they transfer their Flexible PPL entitlement. Transfers can occur any time up to the child's second birthday, in blocks as small as a day at a time.

The increased flexibility will make it easier for mothers who are eligible for PLP to transfer the entitlement to eligible partners who take on the role of primary carer, where it suits the family's circumstances. For example, a mother may choose to take 17 weeks of her PLP entitlement and transfer the remaining week to her partner, who may choose to take a week off work when the child is transitioning into childcare at 18 months old.

The changes to PLP will give parents more choice and allow them to tailor their payments to their family's needs and situation. Increasing the flexibility of PLP may support greater uptake of leave by secondary carers, contributing to changing social norms around sharing care and encouraging men to take parental leave.

4. Financial impacts

The changes to increase the flexibility of the PPL scheme will enable more parents and families to claim more of their entitlement. The financial impact for the Bill is a cost of \$25.183 million (Department of Social Services only) from 2019-20 to 2021-22.

5. Implementation

Utilising existing Services Australia delivery infrastructure

Subject to the passage of legislation, Services Australia will make changes to its existing service delivery infrastructure to accommodate pre-birth claimants and ensure parents have access to the new flexible arrangements for births or adoptions expected on or after implementation on 1 July 2020.

Employer role in Flexible PPL

The Flexible PPL measure has been designed to minimise impacts of the mandatory employer role. Employers will continue to be required to make the Government funded PLP payments to their eligible employees who have been employed for at least 12 months and who will be returning to work.

A PLP entitlement must be taken in one continuous block of up to 18 weeks. If an employer is required to provide PLP to a person, they will generally be required to provide PLP for this entire period.

Employers will only have to provide PLP for any days taken in a continuous block in the first year after birth. This will include the person's PPL period and any Flexible PPL days taken in a continuous period immediately following the end of the PPL period. Employers will not be required to provide PLP for any Flexible PPL days that are taken separately from this continuous period. To minimise the burden on employers, Services Australia will pay all non-continuous amounts of PLP and any PLP entitlements, continuous or not, after the child's first birthday.

Example: Long term employee who plans to return to work after PLP

Claire has been employed by the same employer for seven years. When she is pregnant with her first child she arranges to take six months leave from her employer. Claire is eligible for PLP and she decides to take 17 weeks of her entitlement after the birth of her child.

Existing policy

As Claire is taking this portion of her entitlement in a continuous block within 12 months of the birth, Claire's employer will be required to make the Government-funded PLP payments to Claire for the first 17 weeks of her entitlement. Claire's PLP entitlement ends after 17 weeks when she returns to work.

Flexible policy

As above, the first 17 weeks of Claire's Government-funded PLP would be paid through her employer. However, after returning to work Claire would still be eligible for one week (five days) of Flexible PPL.

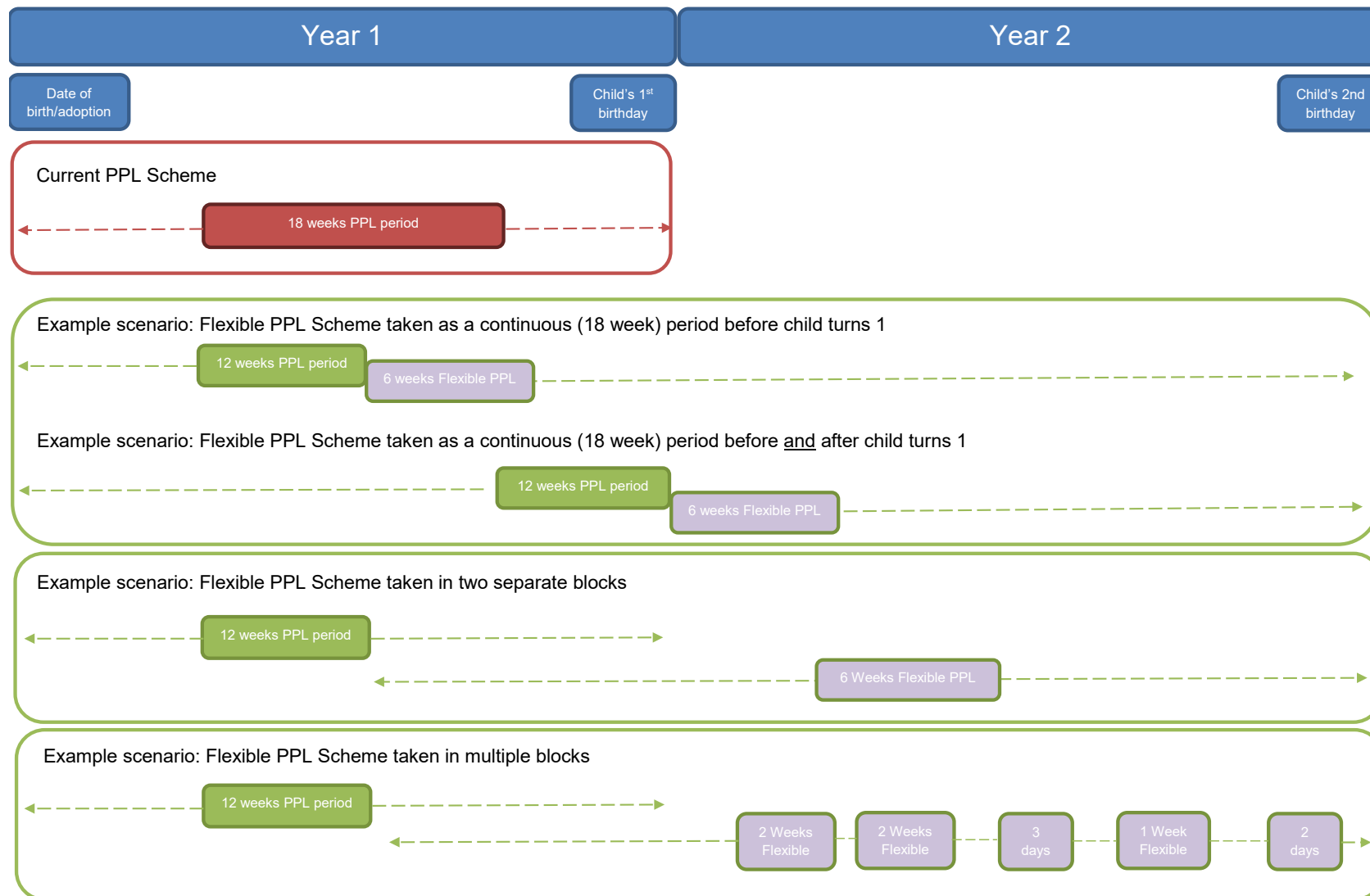
Claire enrolls her baby in childcare when the baby is 12 months old. Claire takes a week of unpaid leave from her employment at this time and claims the remaining week of her PLP entitlement. As Claire is not receiving this portion of her entitlement as part of the continuous period immediately following her PPL period, her employer will not be required to make payments to Claire for the last week of her entitlement. Claire will receive the last week of her entitlement from Services Australia.

Conclusion

The amendments contained in the Bill enable PLP to be accessed more flexibly without changing the fundamental principles underlying the PPL scheme. Parents will have more choice to tailor their payments to their family's needs and balance work and caring responsibilities in a way that best suits their situation.

The new arrangements will help thousands of new parents who currently return to work before they have used all of their PLP and lose valuable time with their young children, particularly self-employed women and small business owners who cannot afford to leave their businesses for 18 consecutive weeks. The greater flexibility will also make it easier for mothers to transfer entitlement to eligible partners, contributing to changing social norms around sharing care and encouraging men to take parental leave.

Attachment A - Diagram showing current Paid Parental Leave Scheme and Flexibility changes with example scenarios



Attachment B - Overview of key changes – Paid Parental Leave Amendment (Flexibility Measures) Bill 2020

	Current policy	Flexibility policy
Payment period	A PPL period of up to 18 weeks to be taken in a continuous period within 12 months of the birth or adoption.	A PPL period of up to 12 weeks to be taken in a continuous period within the 12 months of the birth or adoption, and Six weeks (30 days) of Flexible PPL to be taken in blocks as small as one day within 2 years of the birth or adoption.
Employer role	Employers must provide PLP to eligible long-term employees for the 18-week PPL period.	Employers must provide PLP to eligible long-term employees for the 12-week PPL period and any Flexible PPL days taken in a continuous period immediately following the PPL period within 12 months of the birth or adoption.
Eligibility after return to work	No eligibility for the 18-week PPL period after returning to work.	No eligibility for the 12-week PPL period after returning to work. Eligibility for six week Flexible PPL retained after returning to work. Can be eligible for Flexible PPL even if not eligible for initial 12 week period.
Transfers	Primary claimant can transfer all or part of the 18-week PPL period to a secondary claimant. Once they have transferred it, the primary claimant can no longer access PLP. The 18 weeks must be taken in a continuous period within 12 months of the birth or adoption.	The current transfer rules apply for the 12-week PPL period. The primary claimant can give permission for a secondary claimant to claim some or all of the Flexible PPL entitlement. The secondary claimant can claim Flexible PPL in blocks as small as one day within two years from the birth or adoption. Primary claimant can still access remaining Flexible PPL days.