



# Family and Domestic Violence Leave

## General information for Queensland member clubs

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- Overview of Family and Domestic Violence Leave
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  - Notice, Evidence and Confidentiality Requirements
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## Overview of Family and Domestic Violence Leave

Family and domestic violence leave is a type of employment entitlement that provides employees with paid leave to deal with situations related to domestic violence. This type of leave is available to all employees, including casual employees, and is governed by the National Employment Standards (**NES**). It is a minimum leave entitlement, like annual leave or personal/carer's leave.

This type of leave recognises that family and domestic violence is a social, rather than an individual, problem and can have a significant impact on the wellbeing of employees and their ability to perform their job.

When employees are confronted with family and domestic violence, they may encounter intensified financial strain, social isolation, feelings of vulnerability, and even shame. If left unsupported, these situations can have various ramifications for the workplace. Therefore, employers can ensure they fulfill their workplace responsibilities and aid their employees by increasing their knowledge and awareness of these issues and devising suitable plans to provide support.

Prioritising the health, safety, and well-being of employees can bring numerous advantages to a workplace.

Employers who handle family and domestic violence issues appropriately can experience several benefits, such as better results for employees affected by such violence, enhanced productivity, employee engagement, and job satisfaction, decreased illness and absenteeism rates, lower staff turnover, leading to lower recruitment and training expenses, and diminished legal liabilities.

Family and domestic violence leave is intended to support employees who may be experiencing violence of any kind and may need time off to cope, obtain medical or legal assistance, or relocate.



## Disclaimer

This fact sheet provides information about family and domestic violence leave. This information is general in nature and is intended as a guide only. It is not legal advice, and it should not be relied upon as such. Member clubs are encouraged to seek specific advice from either the Workplace Relations Team or seek independent legal advice before making any decisions based on the information provided in this fact sheet. Clubs Queensland cannot be held responsible for any errors or omissions in this fact sheet or for any actions or decisions taken in reliance upon the information contained in this fact sheet.



## Paid family and domestic violence leave

From **1 February 2023**, all employees, including casual employees, of non-small business employers (with 15 or more employees) can access 10 days of paid family and domestic violence leave.

Employees employed by small business employers (with less than 15 employees) can access paid leave from **1 August 2023**.

See '**Paid Family and Domestic Violence Leave**' below for a general explanation on what this type of leave is, how employees can access it and what this means for employers.

See the [Fair Work Ombudsman's](#) website to learn more about paid family and domestic violence leave.



## Support services

1800RESPECT is a nationwide support service that offers counselling, information, and assistance for individuals dealing with domestic, family, or sexual violence.

If you or someone you know is currently experiencing, or may be at risk of experiencing, any of these forms of violence, please call 1800RESPECT at **1800 737 732** or visit [1800RESPECT.org.au](https://www.1800respect.org.au).



## What is Family and Domestic Violence?

Family and domestic violence means violent, threatening or other abusive behaviour by certain individuals known to an employee that seeks to coerce or control the employee and causes them harm or to be fearful.

## Accessing Family and Domestic Violence Leave

To access **paid** family and domestic violence leave, these individuals must be:

- an employee's close relative;
- a member of an employee's household; or
- a current or former intimate partner of an employee.

A close relative is an employee's:

- spouse or former spouse;
- de facto partner or former de facto partner;
- child;
- parent;
- grandparent;
- grandchild;
- sibling;
- current or former spouse or de facto partner's child, parent, grandparent, grandchild or sibling.

It also includes a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

Employees must be experiencing family and domestic violence to be eligible for this leave.

Employees may take the leave for reasons such as:

- making arrangements for their safety, or the safety of a close relative (including relocation);
- attending court hearings;
- accessing police services;
- attending counselling;
- attending appointments with medical, financial or legal professionals.



## Examples of Family and Domestic Violence

Family and domestic violence can take many forms and not all forms are necessarily visible. The behaviour can be violent, threatening, or other abusive behaviour that seeks to coerce or control the employee or causes them harm or fear.

Violence can be physical, sexual, emotional, psychological, social, cultural, spiritual, or financial. It can also be done through technology.

Examples can include:

- physical violence;
  - physically hurting or restraining;
  - sleep or food deprivation or forced feeding;
- sexual assault or sexually abusive behaviour;
  - unwanted touching or rape;
  - unwanted exposure to pornography;
  - sexual jokes or using sexually degrading insults;
- verbal abuse;
  - putting the person down and calling them names;
  - shifting the responsibility for abusive behaviour onto the victim;
- emotional or psychological abuse;
  - making the person feel afraid by using looks, actions and gestures;
  - making light of the abuse or saying the abuse didn't happen;
- stalking;
  - visiting at work in inappropriate ways;
  - sending repeated upsetting phone calls, emails or texts;
- financial abuse;
  - stopping the person from getting or keeping a job;
  - making the person ask for money or restricting their access to money (e.g., managing any allowance they get);



- spiritual or cultural abuse;
  - preventing the person from practising their religion or ridiculing their religious beliefs or practices;
  - misusing spiritual or religious beliefs and practices to justify other types of abuse and violence;
- serious neglect where there is a relationship of dependence;
  - withholding access to the person's money or belongings;
  - not allowing services to help someone;
- damage to property or belongings;
  - threatening damage to property;
  - breaking, hiding or damaging belongings;
- technology assisted abuse;
  - using technology, such as smart phones, social media and apps to threaten, isolate, abuse, track or stalk the victim;
  - using technology to control what the victim does, who they see and talk to and what they read;
- abuse or threatened abuse of pets;
  - threatening to harm or kill pets;
  - injuring, killing or abducting pets;
- behaviour by a person using violence that causes a child to be exposed to the impact of family and domestic violence;
  - using children to send messages;
  - using visitation rights to harass the victim or threatening to take children away.

## **Effects of Family and Domestic Violence**

The effects of family and domestic violence can have both short and long-term consequences, including:

- detrimental impacts on physical and mental health and wellbeing;
- social isolation;
- complex trauma;
- disability;
- job loss;



- homelessness;
- financial hardship;
- physical injury; and
- in some instances, even death.

To gain a better understanding of how to recognise the signs of family and domestic violence, respond appropriately, and refer individuals to support services, DV-alert provides a complimentary two-hour workshop available for anyone in the community aged 18 and over. These workshops are conducted online and in-person throughout Australia. Further details are available on [DV-alert's](#) website.

## Family and Domestic Violence Leave Entitlements

All employees, including casual employees, are entitled to:

- **10 days of paid leave.**

This leave:

- doesn't accumulate from year to year if it isn't used;
- is available in full when an employee starts working at a new workplace;
- renews in full at the start of each 12 month period of employment (i.e., on the anniversary of when they started working for that employer, not on the anniversary of the relevant start date);
- can be taken as a single continuous period or separate periods of one or more days.

Employers and employees can agree to take less than one day at a time.

## Registered and Enterprise Agreements

The *Registered and Licensed Clubs Award 2020 (the Award)* does not provide any additional entitlements or conditions for dealing with family and domestic violence.

Clause 30 of the Award sets out explanatory notes which encourages employers to consult with employees regarding the handling of any sensitive information that concerns an employee's experience with family and domestic violence.

It also sets out evidence that can be provided to employers when accessing the leave. The evidence, depending on the circumstances, would need to satisfy a reasonable person of the employee's need to take family and domestic violence leave which can include a document issued by the police service, a court or family violence support service or a statutory declaration.

Employers with enterprise agreements will need to refer to this document for entitlements or conditions dealing with family and domestic violence leave.



## Workplace Policies

Employment contracts or workplace policies may include family and domestic violence leave entitlements that are either paid or unpaid. The specific amount of leave and pay entitlements will vary depending on the policy or contract.

In situations where the entitlement provided in the contract or policy is less than the minimum requirement in the NES, the NES entitlement will still apply.



### Example

**Employer provides family and domestic violence leave entitlements under an employment contract or workplace policy more than the NES**

Sarah is entitled to 10 days paid leave each year under the NES.

Sarah's employer also has a family and domestic violence leave policy that provides employees with an additional entitlement to 5 days of paid family and domestic violence leave each year.

Sarah's entitlement under the NES is less than her employer's policy. That means that the NES will not apply and Sarah is entitled to 15 days of unpaid family and domestic violence leave each year.



### Example

**Employer provides family and domestic violence leave entitlements under an employment contract or workplace policy less than the NES**

Blake is entitled to 10 days paid leave each year under the NES.

Blake's employer also has a family and domestic violence leave policy that provides employees with an entitlement to 2 days of unpaid family and domestic violence leave each year.

Blake's entitlement under the NES is more than his employer's policy. That means that Blake is entitled to 10 days of paid family and domestic violence leave each year.



## How is Family and Domestic Violence Leave Paid?

Full-time and part-time employees are entitled to be paid at their full rate of pay for the hours they would have worked had they not taken the leave. Casual employees will be paid at their full rate of pay for the hours they were rostered to work in the period they took the leave.

It will not be pro-rated for part-time or casual employees.

An employee's full rate of pay includes their base rate of pay plus any:

- incentive-based payments and bonuses;
- loadings;
- monetary allowances;
- overtime or penalty rates;
- any other separately identifiable amounts.



### More information

For a more detailed explanation on how this applies, see the [Fair Work Ombudsman's](#) website.



### Note

It is extremely important to ensure that employers comply with the rules on how information about paid family and domestic violence leave must be reported on pay slips and what information must not be included. This aims to reduce the risk to an employee's safety when accessing the leave.

See the [Fair Work Ombudsman's](#) website for further information about pay slip requirements.





## **Notice, Evidence and Confidentiality Requirements**

### **Notice and Evidence**

If an employee decides to take family and domestic violence leave, they have to let their employer know as soon as possible. This can be done after the leave has been taken.

An employer may request evidence from an employee to show they need to do something to deal with the impact of family and domestic violence and it's not practical to do that outside of their work hours.

As per the Award, the evidence, depending on the circumstances, would need to satisfy a reasonable person of the employee's need to take the leave to deal with the impact of family and domestic violence.

This may include:

- a statutory declaration;
- documents issued by the police;
- documents issued by a court; or
- family violence support service documents.

An employer may only use the information obtained from an employee to satisfy themselves that the employee is entitled to family and domestic violence leave, unless:

- the employee consents;
- the employer is required to deal with the information by law; or
- it's necessary to protect the life, health or safety of the employee or another person.

The employer cannot use the information for any other purpose, including to take adverse action against the employee.

### **Confidentiality**

Employers have to take reasonable steps to keep any information about an employee's situation confidential when they receive it as part of an application for leave. This includes any information about the employee giving notice that they're taking the leave and any evidence they provide.

Employers may **only** disclose the information if the employee consent, it's required by law or if it's necessary to protect the life, health or safety of the employee or another person.

Any information about an employee's experience of family and domestic violence is sensitive. It is important for employers to understand that mishandling this information could have adverse consequences for their employee, including serious injury or harm. Employers should work with employees to discuss and agree on how this information will be handled.



### **More information**

See the [Fair Work Ombudsman's](#) website to access their Employer Guide to Family and Domestic Violence.

## **Interaction with Other Types of Leave**

If an employee wishes to utilise their paid family and domestic violence leave while on paid sick and carer's or annual leave, they may do so. In such cases, the employee will be considered to be on paid family and domestic violence leave, and not on their previous form of paid leave. To take advantage of this option, the employee must provide their employer with the required documentation and notice.

Employees who are experiencing family and domestic violence may consider taking alternative types of leave if they have utilised the 10 days of paid family and domestic violence leave, such as paid annual leave, and may also be eligible for paid sick or carer's leave, depending on the situation.

Additional information on these forms of leave can be found on our Annual Leave – Fact Sheet or Sick and Carer's Leave – Fact Sheet.

## **Flexible Working Arrangements**

Employees who are experiencing family and domestic violence may consider flexible working arrangements to help manage their situation. This approach allows for mutually agreed-upon changes to working conditions, which may include working part-time instead of full-time, adjusting starting and finishing times or working from home, benefiting both the employee and employer.

An eligible employee can request a flexible working arrangement and this request must be documented in writing and set out what changes are being requested and the reasons for the requested change.



### **More information**

For more information around eligibility, conditions and requirements for requesting flexible working arrangements, see the [Fair Work Ombudsman's](#) website.

To request flexible working arrangements, employers and employees should also ensure that the process set out under clause 5 and 6 of the Award is followed and kept in mind.



Employers must genuinely try to reach an agreement with the employee on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- the needs of the employee arising from their circumstances;
- the consequences for the employee if changes in working arrangements are not made; and
- any reasonable business grounds for refusing the request.

Employers who receive a request will need to provide a written response within 21 days. The response has to also outline whether the request is approved or refused.

Employers may only refuse a request on reasonable business grounds. If the request is refused, the written response needs to include the reasons for the refusal.

## Workplace flexibility online course

The Fair Work Ombudsman's website has a helpful resource for employers to access to better understand workplace flexibility. To learn more about this resource, see the [Workplace flexibility online course](#).

Reasonable business grounds can include:

- the requested arrangements are too costly;
- other employees' working arrangements can't be changed to accommodate the request;
- it's impractical to change other employees' working arrangements or hire new employees to accommodate the request; and
- the request would result in a significant loss of productivity or have a significant negative impact on customer service.



## In summary

Family and domestic violence leave is a type of leave that provides employees with the opportunity to take time off from work if they or someone in their immediate family is experiencing family or domestic violence. The leave is intended to allow employees to manage the impact of violence on their lives and provides them with financial support during this difficult time. Employees are entitled to a specific amount of paid and unpaid leave depending on their circumstances, and they must provide appropriate evidence of the violence. In addition, employees may also be able to use other types of leave, such as personal/carer's leave or annual leave, depending on their situation. Flexible work arrangements may also be an option for employees experiencing family and domestic violence.



## Resources

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For more information and resources on support services available to employees experiencing family and domestic violence, see:

- Club's employee assistance program.
- 1800RESPECT- National sexual assault, domestic family violence counselling services – 1800 737 732.
- Lifeline - 24-hour crisis support – 13 11 14.
- Relationships Australia – counselling, family dispute resolution and a range of family and community support – 1300 364 277.
- MensLine Australia – telephone and online counselling service for men with family and relationship concerns – 1300 789 978.
- QLife – LGBTQIA+ Support – 1800 184 527.
- Aboriginal FV Legal Services – support for first nations people – 1800 309 912.

The relevant rules and laws can be found in the following governing documents:

- [Domestic and Family Violence Protection Act 2012 \(Qld\)](#)
- [Fair Work Act 2009 \(Cth\)](#)
- [Registered and Licensed Clubs Award 2020 \(Cth\)](#)

This factsheet should be read in conjunction with the following related CQ factsheets:

- Family and domestic violence policy
- Mullins factsheet – FDV & visa holders
- Annual leave
- Sick and carer's leave
- Flexible working arrangements

For further information or specific advice, clubs are encouraged to contact the Clubs Queensland Workplace Relations Team on (07) 3252 0770.