

PAID DOMESTIC AND FAMILY LEAVE

NATIONAL EMPLOYMENT STANDARDS

– FAIR WORK



Information Sheet

Following a decade-long, sustained campaign by the Australian union movement, 10 days of paid Domestic and Family Violence (DFV) leave is now available to all workers. Paid DFV leave is now part of the minimum entitlements under the National Employment Standards (NES).

Details about the entitlement, including who it applies to and under what conditions, is provided within this information sheet.

What is Domestic and Family Violence?

DFV is violent, threatening and controlling behaviour or other abusive behaviour by certain individuals known to a person that seeks to control, coerce or cause them fear or harm through violent, threatening or other abusive behaviour.

When does the paid leave take effect?

All employees, including casuals and part-time, are entitled to access up to 10 days of paid leave per year. For people working in businesses with 15 or more employees, this is available from 1 February 2022. For people working in a business with less than 15 employees, paid DFV leave is available from 1 August 2023. Until then employees are entitled to access *unpaid leave* when unable to attend work because of DFV.

Who can access paid DFV leave?

Employees impacted by DFV can access 10 days of paid leave if the matter relates directly to them, and also when it relates to an employee's close relative, a member of their household or a current or former intimate partner of the employee.

The *Fair Work Act* (FWA) defines a close relative as an employee's:

- spouse or former spouse
- [de facto partner](#) or former de facto partner
- child
- parent
- grandparent
- grandchild
- sibling
- an employee's current or former spouse or de facto partner's child, parent, grandparent, grandchild or sibling, or
- a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

Employees working in small businesses (15 employees or less) are only able to access unpaid DFV leave until 1 August 2023. Unpaid DFV leave is only available if the DFV is being experienced directly by the employee or is a close relative as defined above and not a member of their household or former spouse.

Is proof required?

Employees accessing DFV leave (paid or unpaid) must advise their employer as soon as possible, which may be after the leave has commenced. Employees should advise how long they anticipate the leave will be. An employer can ask for evidence which may include a statutory declaration, documents issued by the police, documents issued by a court and family violence support documents.

Flexible work and other supports

From 6 June 2023, employees experiencing violence from a family member, or who are caring for a household member or immediate family member who is experiencing family and domestic violence, have a right to request flexible working arrangements under the FWA. Eligible employees must have worked continuously with the same employer for at least 12 months. A casual employee can make the request if there is regular and systematic employment for at least 12 months.

Examples of flexible work includes hours of work such as staggered start/finish times or break times, patterns of work, job sharing, job location and undertaking non-public facing duties.

Is the workplace safe for the employee?

DFV can impact the safety of the employee and others in the workplace. Employees impacted are encouraged to work with their employer to develop an individual safety plan. For example, the safety plan may include not having a photograph, direct phone contact or email address publicly available on websites or outward-facing documents.

Who needs to know?

It is important that employers are aware that any information pertaining to an employee's experience of DFV is sensitive. Information that is mishandled can have dire and adverse consequences. It is recommended that the person impacted by DFV discuss and agree with the employer how information can be handled.

Employers must take reasonably practicable steps to keep any information about an employee's situation confidential when they receive it as part of an application for leave. This includes information about the employee accessing family and domestic violence leave such as leave records, as well as any evidence provided by the employee.

Employers may need to disclose information when it is required by law or necessary to protect the life, health and safety of the employee or another person.

What can a union do to support members?

Unions should provide information and resources relating to DFV for their members and refer members for further information and support. Ideally officials and union employees who help people experiencing trauma should adopt a trauma informed approach. It is also important to provide time, debriefing and support for union delegates and employees who are working in this space.

What else needs to be considered?

Unions and workplaces need to have support and resources in place; it is not enough to wait until they have an employee approach them for paid DFV leave to implement workplace policies and procedures to accommodate requests. Employers are encouraged to have DFV policies in place and make them known to all employees. This may be as part of induction, HR resources, staff meeting or intranet resources.

Support and referral services

You are not a DFV counsellor, but you can provide workplace support (see dos and don'ts). Please ensure the member has access to where they can access further information.

1. Call 000 if someone is seriously injured or in need of urgent medical attention, if someone's life is being threatened, or you've witnessed an incident.
2. 1800RESPECT is the national domestic, family and sexual violence counselling, information and support service. If you or someone you know is experiencing, or at risk of experiencing, domestic, family or sexual violence, call 1800RESPECT on [1800 737 732](tel:1800737732) or visit 1800RESPECT.org.au.
3. Lifeline provides crisis support and suicide prevention services 24 hours, seven days a week. Phone: 13 11 14
4. DVConnect provides [Support for women experiencing DFV](#) is a state-wide 24 hours a day, seven days a week service providing confidential advice and counselling, as well as referral to crisis accommodation for women and children affected by domestic violence. Phone: 1800 811 811 (this number will not appear on your phone bill).
5. DV Connect [Support for men experiencing DFV](#) is a state-wide service (9am to midnight, seven days a week) supporting men affected by domestic violence. Phone: 1800 600 636
6. DV Connect [Support for LGBTQ+ people experiencing DFV \(dvconnect.org\)](#) community and domestic and sexual violence help (dvconnect.org) Phone: 1800 811 811