



Fair Work
OMBUDSMAN

Quick Start Employer Guide to Family and Domestic Violence



What is family and domestic violence?

Family and domestic violence takes many forms. Examples can include¹:

physical violence <ul style="list-style-type: none">• physically hurting or restraining• sleep or food deprivation or forced feeding	sexual assault or sexually abusive behaviour <ul style="list-style-type: none">• unwanted touching or rape• unwanted exposure to pornography• sexual jokes or using sexually degrading insults	verbal abuse <ul style="list-style-type: none">• putting the person down and calling them names• shifting the responsibility for abusive behaviour onto the victim	emotional or psychological abuse <ul style="list-style-type: none">• making the person feel afraid by using looks, actions and gestures• making light of the abuse or saying the abuse didn't happen
stalking <ul style="list-style-type: none">• visiting at work in inappropriate ways• sending repeated upsetting phone calls/emails/texts	financial abuse <ul style="list-style-type: none">• stopping the person from getting or keeping a job• making the person ask for money or restricting their access to money, for example by managing any allowance they get	spiritual or cultural abuse <ul style="list-style-type: none">• 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	
abuse or threatened abuse of pets <ul style="list-style-type: none">• threatening to harm or kill pets• injuring, killing or abducting pets	damage to property or belongings <ul style="list-style-type: none">• threatening damage to property• breaking, hiding or damaging belongings	technology assisted abuse <ul style="list-style-type: none">• using technology, such as smart phones, social media and apps to threaten, isolate, abuse, track or stalk victim• using technology to control what the victim does, who they see and talk to, what they read	serious neglect where there is a relationship of dependence <ul style="list-style-type: none">• withholding access to the person's money or belongings• not allowing services to help someone
behaviour by a person using violence that causes a child to be exposed to the effects of family and domestic violence. <ul style="list-style-type: none">• using children to send messages• using visitation rights to harass the victim or threatening to take children away			

1. Domestic Abuse Intervention Programs, [The Duluth Model](https://www.theduluthmodel.org/) Wheel at <https://www.theduluthmodel.org/>

What are your legal responsibilities as an employer?



As an employer, you need to be aware that the Fair Work Act provides minimum entitlements for employees. Employers can provide more than the minimum entitlements under workplace policies, enterprise agreements and informally.

Under the Fair Work Act, employees dealing with the impact of family and domestic violence can:

- take unpaid family and domestic violence leave
- request flexible working arrangements
- take paid or unpaid personal/carer's leave, in certain circumstances.

Unpaid family and domestic violence leave

Employees (including casual and part-time employees) are entitled to 5 days of unpaid family and domestic violence leave each 12 month period. 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
- can be taken as a single continuous period or separate periods of one or more days.

Employers and employees can agree for an employee to take less than one day at a time, or for the employee to take more than 5 days of leave.

What is family and domestic violence?

The Fair Work Act defines family and domestic violence as violent, threatening or other abusive behaviour by an employee's close relative that seeks to coerce or control the employee and causes them harm or to be fearful.

Who is a close relative?

A close relative is:

- 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.

When can employees take unpaid family and domestic violence leave?

Employees can take leave when they:

- are experiencing family and domestic violence
- need to do something to deal with the impact of that violence
- it's impractical to do so outside their ordinary hours of work.

For example, this could include:

- making arrangements for their safety or the safety of a close relative, such as a dependent child (including relocation)
- attending urgent court hearings, or
- accessing police services.

Practical Tip



Two employees are in a relationship with each other and both of them separately request to take family and domestic violence leave.

Only employees who are experiencing family and domestic violence are entitled to take this leave. If you're dealing with this situation in your workplace, it is important to get legal advice to help you understand your legal rights and obligations.

Notice and evidence

If an employee takes family and domestic violence leave, they have to let their employer know as soon as possible. This can happen after the leave has started. Employees also need to tell their employer how long they expect the leave to last. An employer can ask for evidence, which can include:

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

Confidentiality

Employers have to take reasonably practical 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 taking family and domestic violence leave, including leave records as well as any evidence provided by the employee.

Employers aren't prevented from disclosing information if it's:

- required by law, or
- necessary to protect the life, health or safety of the employee or another person.

Employers need to be aware that any information about an employee's experience of family and domestic violence is sensitive. If information is mishandled, it could have adverse consequences for their employee including serious injury or harm. It is recommended that

employers work with their employee to discuss and agree on how this information will be handled.

Visit [fairwork.gov.au](https://www.fairwork.gov.au) to learn more about [unpaid family and domestic violence leave](#).²

What are flexible working arrangements?

Flexibility in the workplace allows employers and employees to make arrangements about working conditions that suit them. This helps employees maintain a work-life balance and can help employers improve the productivity and efficiency of their business.

Under the Fair Work Act, employees experiencing violence from a family member or who are caring for a household member or immediate family member who is experiencing violence from the member's family, have a right to request flexible working arrangements.

To be eligible, employees must have worked with the same employer continuously for at least 12 months. A casual employee can make a request if:

- they've been working for the same employer regularly and systematically for at least 12 months
- there's a reasonable expectation of continuing work with the employer on a regular and systematic basis.



Examples of flexible working arrangements include changes to:

- hours of work, such as working staggered start, finish or lunch times
- patterns of work, such as split shifts or job sharing
- locations of work, such as working away from the office
- duties, such as moving into non-public facing roles or temporary work assignments off-site.

How do employees request flexible working arrangements?

Requests need to:

- be in writing
- explain what changes the employee is asking for
- explain the reasons for the requested change.

All employers who receive a request must provide a written response within 21 days which outlines whether the request is approved or refused. Employers can only refuse a request on reasonable business grounds. If a request is refused the written response has to include the reasons for the refusal.

Employers and employees can informally agree on changes to working arrangements.

2. <https://www.fairwork.gov.au/leave/family-and-domestic-violence-leave>

Visit [fairwork.gov.au](https://www.fairwork.gov.au) to learn more about:

- [Flexible working arrangements](https://www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/flexible-working-arrangements)³
- [Accommodating requests using our free Workplace flexibility online course](https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/workplace-flexibility).⁴

Paid and unpaid sick and carer's leave

An employee can access paid or unpaid sick or carer's leave:

- to recover from personal illness or injury
- to provide care or support to an immediate family member or household member recovering from personal illness or injury, or
- for unexpected emergencies involving an immediate family member or household member.

Access to sick or carer's leave doesn't extend to taking leave to do something to deal with the impact of family or domestic violence. For example, it can't be taken to attend legal appointments or access police services. Family and domestic violence leave can be used for these purposes.

An employee can access paid or unpaid sick or carer's leave as a result of family and domestic violence when the employee has:

- a personal illness or personal injury affecting the employee caused by family or domestic violence
- an unexpected emergency affecting a member of the employee's immediate family or household due to family or domestic violence.

Visit [fairwork.gov.au](https://www.fairwork.gov.au) to learn more about [Sick and carer's leave](https://www.fairwork.gov.au/leave/sick-and-carers-leave).⁵

For more information and resources, download the full [Employer Guide to Family and Domestic Violence](https://www.fairwork.gov.au/fdvguide).⁶

3. <https://www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/flexible-working-arrangements>

4. <https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/workplace-flexibility>

5. <https://www.fairwork.gov.au/leave/sick-and-carers-leave>

6. <https://www.fairwork.gov.au/fdvguide>