

Statement on Employee Medical Consultations

27 September 2012

The Fair Work Ombudsman is concerned about recent reports surrounding employers attempting to attend medical appointments with employees.

The Fair Work Ombudsman does not condone or support this behaviour and sees no reason why an employer should seek to attend a private and confidential appointment with an employee, unless specifically requested to do so by the employee.

The laws around sick leave and personal leave are quite simple. While an employer may request evidence that would substantiate the reason for an employee's entitlement to personal/carer leave, a medical certificate or statutory declaration is generally considered an acceptable form of evidence.

The Fair Work Ombudsman does not consider that it is reasonable for an employer to seek to attend a medical appointment with the employee for this purpose and views this as a breach of the employee's privacy.

The Fair Work Ombudsman has great respect for the medical profession and there are well established processes within the profession for dealing with practitioners who issue a fraudulent or unjustified certificate; and against an employee if they provide the wrong information that led to the issuing of a certificate. It is not the role of the employer to attend the appointment in order to determine a certificate's validity.

When considering a request for personal/carer's leave, an employer must only request evidence that 'would satisfy a reasonable person' that the leave was taken because of an employee's illness or injury. If an employee provides this evidence, the employer must grant the request.

The Fair Work Ombudsman believes that creating trusting relationships with employees is integral to achieving a positive and productive workplace.

When considering requests for personal/carer's leave, it is important for employers to respect their employee's privacy and to only obtain evidence that is relevant to substantiate the absence. The cause and nature of their absence is not necessary, except in unusual or exceptional circumstances.

When an employer questions or intrudes into the nature of an employee's illness or injury, it may have negative consequences for the workplace culture of a business.

Employers and employees seeking information and advice should visit www.fairwork.gov.au or call the Infoline on 13 13 94 from 8am-6pm weekdays.

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

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