



# DFV Work Aware

when domestic & family violence comes to work

## Family and Domestic Violence: Leave and Flexible Work Arrangements

### **I am worried about telling my workplace about my situation. Can anyone help me with this?**

Expert advice is available from the Working Women's Centre in your state and territory (NT, QLD and SA only) or your union office. You may also find it helpful to call [1800 RESPECT](tel:1800737732) 24/7 on 1800 737 732 or [Domestic Violence Impact Line](tel:1800943539) 24/7 on 1800 943 539 to talk to a DFV professional who can provide information about who else you can talk to about this.

### **Can I take leave to deal with domestic and family violence issues?**

All employees now have access to a minimum of 5 days unpaid leave under the [National Employment Standards](#) (and in [Modern Awards](#)) for reasons relating to domestic and family violence. This entitlement starts from the day you commence employment and replenishes each 12 months.

Many employees have access to paid leave entitlements through their [enterprise agreement](#). This is an agreement made between employees and the employer about conditions of employment. Your employer should provide you with a copy of this agreement if one exists for your workplace.

There may be additional provisions depending on where you work and your contract of employment.

### **You can request unpaid leave and other kinds of paid leave:**

#### **Personal/carer's, compassionate and Annual Leave**

All workers in the private sector in Australia who are covered by the *Fair Work Act (2009)* have the right to take [personal/carer's](#) and [compassionate leave](#) under the [National Employment Standards](#) (NES) and may do so for health issues related to domestic violence, sexual assault, or for issues related to being the carer of a person who has health issues as a result of experiencing domestic violence or sexual assault.

The National Employment Standards provide the following entitlements:

#### **For permanent or contract employees**

- 10 days of paid personal/carer's leave per year;
- A further 2 days of unpaid carer's leave per occasion if all paid leave has been used up; and
- 2 days of paid compassionate leave per occasion.
- Permanent full-time workers are entitled to 4-weeks of paid annual leave each year.

- Permanent part-time workers are entitled to the same on a pro-rata basis.
- Shift workers may be entitled to 1 extra week of annual leave each year.
- An employer may offer more than 4 weeks paid annual leave.
- Your employer cannot reasonably refuse your request for annual leave.

#### **For casual employees**

- 2 days of unpaid carer's leave per occasion; and
- 2 days of unpaid compassionate leave per occasion.
- Casual employees are not entitled to paid annual leave but may be entitled to unpaid leave. For entitlements, check with your employer, your union or the Working Women's Centres.

#### **Fixed term contract workers**

Fixed term contract employees are generally entitled to annual leave on a pro-rata basis. For example, if you are employed on a fixed contract for 6 months, you would be entitled to 2 weeks annual leave (rather than 4 weeks which is the full annual entitlement under the NES).

#### **Any employee can take personal/carer's leave if:**

- You are not fit to work because of personal illness or injury; or
- You need to provide care or support for a member of your immediate family or household due to personal illness or injury, or an unexpected emergency. The definition of immediate family includes your spouse, de facto partner, child, parent, grandparent, grandchild or sibling, and your spouse or de facto partner's child, parent, grandparent, grandchild or sibling.

[Compassionate leave](#) can be taken if a member of your immediate family or household dies or has an illness or injury that poses a serious threat to their life.

If your workplace has an [enterprise agreement](#), it may contain additional provisions for personal/carer's leave and compassionate leave.

### **Can I request flexible working arrangements because of domestic and family violence?**

You have the right to request [flexible working arrangements](#) if you have 12 months continuous service with the employer and, if you are a casual, you have an expectation of ongoing employment on a



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regular and systematic basis. You can make the request if you are experiencing domestic or family violence or if you provide care to a member of your household or immediate family who is experiencing domestic or family violence.

### How to request flexible working arrangements

To make the request for flexible working arrangements you must make the request in writing and include what change you are wanting and why.

### Some examples of what you can ask for:

- Changes in work patterns for safety reasons, e.g., patterns of working hours and/or location of work
- Transfer to an alternative working location either permanently or as a temporary safety measure
- Change in duties to remove you from public access (please note removal from public access is difficult in some workplaces, e.g. retail, so while you can ask for this the employer may have grounds to refuse)
- Flexibility in working hours, in number of hours worked and rostering to allow you to attend matters related to the DFV, e.g. court appearances, finding safe accommodation, school appointments or transfers, counselling, and medical appointments.

**FACT:** If you have children of school age or younger and are affected by DFV you have the right, under section 65 of the *Fair Work Act (2009)* to request flexible working arrangements on the grounds of both the DFV and/or your role as a parent.

In your proposal consider and include any benefits to the employer, for example:

- Workplace health and safety for yourself, colleagues, and the workplace.
- Continuity in the workplace and cost saving on unnecessary staff turnover when you can keep your job despite suffering the DFV; which you wish to do as you are committed to the organisation and your role.
- That you respect your employer as a leader in their field; and in providing support through this DFV workplace provision they are furthering their standing and reputation as an industry leading best practice organisation.

### Visit the Fair Work Ombudsman website to read more about flexible working arrangements including:

- Who is entitled to request

- Reasons for making a request
- Employer's obligations
- Reasons an employer refuse a request

### Flexible working arrangements: What happens next?

Your employer must give you a written response within 21 days, stating whether the request is granted or refused. If refused, the employer must provide their reasons. You should be able to clearly understand why your request is has been refused.

A request can only be refused on reasonable business grounds. These may include:

- The effect on the workplace, including the financial impact and the impact on efficiency, productivity and customer service;
- The inability to organise work among existing staff;
- The inability to recruit a replacement employee or the practicality or otherwise of the arrangements that may need to be put in place to accommodate the request.

### Help if your request for leave or flexible working arrangements is refused

It is best to get expert advice before approaching your workplace if you are considering challenging your employer's refusal of a request for leave or a request for flexible arrangements. Expert advice is available from the Working Women's Centre in your state or territory (NT, QLD and SA only) or union office.

### Working Women's Centres

[NT Working Women's Centre](#)

<https://www.ntwwc.com.au>

[Working Women Queensland – a program of Basic Rights Queensland](#)

<https://brq.org.au/supporting-women-at-work/>

[Working Women's Centre South Australia](#)

<https://wwcsa.org.au>

1. Fair Work Ombudsman (2021). *Family & domestic violence leave*. Australian Government. <https://www.fairwork.gov.au/leave/family-and-domestic-violence-leave>