

Domestic and Family Violence Leave - what do you need to know?

As a result of the unfortunate increases in the instances of Domestic Violence within Australia, provisions relating to an entitlement for Family and Domestic Violence Leave have been incorporated into the *Fair Work Act 2009 (Cth)* (the **Act**) as a term to be included in all modern awards.

Under section 106B of the Act, Family and Domestic Violence is defined as follows:

“... violent, threatening or other abusive behaviour by a close relative of an employee that:

- a. seeks to coerce or control the employee; and*
- b. causes the employee harm or to be fearful.”*

A close relative of an employee is considered to be a person who is a member of the employee's immediate family which is defined to include:

“(a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or

(b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.”

Further, the definition of a close relative also extends to an individual who is related to the employee according to Aboriginal or Torres Strait Islander kinship rules. Therefore, it is important to note that an entitlement to leave under these provisions does not arise purely out of a marital setting.

Under the National Employment Standards which are incorporated in the Act, an employee is entitled to five (5) days of unpaid Domestic and Family Violence Leave per calendar year if that employee:

1. is experiencing Family and/or Domestic Violence; and
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2. needs to do something to deal with the impact of the Family and/or Domestic Violence (i.e. sourcing alternative accommodation); and
3. it is impractical for the employee to do that action outside of their ordinary hours of work.

It is important to note that the Act does not provide a detailed explanation of what sorts of behaviour constitutes Family and/or Domestic Violence. Therefore, to ensure that you are managing an employee appropriately who is potentially experiencing Family and Domestic Violence, it is critical to recognise and understand that there are various forms of violence which does not always involve physical abuse.

Other forms of Family and Domestic Violence can include:

- financial abuse;
- emotional abuse;
- verbal abuse;
- social abuse (i.e. monitoring phone calls);
- sexual abuse;
- stalking; and
- spiritual abuse (i.e. preventing the practice of a religion).

As an employer, if you are approached by an employee in relation to Domestic and/or Family Violence, it is of utmost importance to keep any information which is disclosed to you confidential.

If you require any assistance with incorporating Family and Domestic Violence Leave into your Employment Contracts, managing an employee who you suspect may be experiencing Family and Domestic Violence or if you think that you may have been treated unfairly in your Workplace as a result of Family and Domestic Violence, contact our [Workplace Team](#) on 07 4688 2188 for more information.

For more information contact our [Workplace Team](#).

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