

## Senate Education and Employment Legislation Committee

### Questions on Notice: Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018

Response from the Department of Jobs and Small Business

#### **Questions on Notice (written)**

#### **1. The Department maintains a database of all enterprise agreements.**

##### **(a) When did the Department start collecting this information? Does the database contain all enterprise agreements approved since this date?**

The Workplace Agreements Database contains data on all federal enterprise agreements made since the introduction of the bargaining principle in 1991. Collection of data on family and domestic violence provisions was introduced in 2012 (any clause providing for family and domestic violence support). From 1 January 2016, data specifically on family and domestic violence leave has been collected.

##### **(b) Of the agreements in the Department's database, how many agreements have provisions for domestic/ family violence leave?**

Of the 10,806 enterprise agreements approved between 1 January 2016 and 30 June 2018 (most recent available data), 2,675 enterprise agreements contained a specific provision providing access to domestic/family violence leave (including both paid and unpaid).

##### **(i) Please provide a breakdown of the length of days per annum for these agreements. E.g. how many provide 5, 10 or an unspecified number of days etc?**

Note: the department only records the length of days per annum for paid leave, not for unpaid leave. This Bill seeks to enshrine a new minimum standard to ensure that national system employees are, at a minimum, entitled to five days of unpaid leave.

Amount of paid family and domestic violence leave	Number of agreements	% Agreements
<5 days	245	9.8%
5 days	268	10.7%
6-9 days	12	0.5%
10 days	1580	63.1%
10< days	181	7.2%
unquantifiable/varies	216	8.6%

**(ii) How many provide paid leave?**

Of the 2,675 enterprise agreements that provide access to family and domestic violence leave, 2,502 include an entitlement to paid leave. (Note: some agreements may contain both paid and unpaid domestic violence leave).

**(c) How many of these agreements are current (ie have not reached their Nominal Expiry Date (NED))?**

Of the 2,675 enterprise agreements that provide access to domestic/family violence leave, 2,611 were current (not expired or terminated) at 30 June 2018.

**2. Has the Department undertaken or reviewed any research about:**

**(a) the impact of family and domestic violence on productivity in the workplace;**

**(b) take up of FDVL;**

**(c) the impact on women of losing pay in addition to having to deal with the consequences of family and domestic violence;**

**(d) the benefits to employees and employers of providing paid or unpaid FDVL?**

Please see response to question 3 below

**3. Beyond the standard consultation with COIL and the National Workplace Relations Consultative Council (NWRCC), did the Department consult any other stakeholders/experts in relation to the provision of family/ domestic violence leave before this Bill was drafted? Please provide details on the dates of these consultations and the stakeholders that participated.**

This response covers question 2 and 3 above.

On 26 March 2018, the independent Fair Work Commission (FWC) decided to grant five days of unpaid family and domestic violence leave to employees whose terms and conditions are set by a modern award.

The FWC looked at this matter extensively, seeking submissions and hearing from expert witnesses throughout their deliberations. The FWC's decision followed consideration of submissions and evidence on paid and unpaid family and domestic violence leave from interested parties from October 2014 to July 2018. The FWC received 68 written submissions from 27 parties, and heard evidence from 26 witness, including expert witnesses, over 11 days of hearings.

The Bill implements the Commonwealth Government's commitment to extend the FWC's decision of 26 March 2018. The evidence and expert witness testimony provided

throughout the FWC proceedings helped inform the Government's decision. As noted in the question, the bill went through the usual consultative process.

The FWC has indicated it will revisit the unpaid leave entitlement in mid-2021, including whether the provision should be made for paid leave.

**Questions on Notice (verbal) - Questions on support for staff of the Department of Jobs and Small Business**

**1 (a) What guidelines are available to supervisors or decision-makers in the Department of Jobs and Small Business about when it is appropriate to exercise discretion to grant additional paid and unpaid leave to employees experiencing family or domestic violence?**

The Department of Jobs and Small Business recognises the potentially devastating impact family and domestic violence can have.

Under the Department's current Enterprise Agreement, employees can access paid and unpaid personal/carer's leave for absences due to domestic or family violence. Employees may also access other leave including annual leave, long service leave and miscellaneous leave (paid and unpaid).

The following department policies (attached) are available to supervisors and managers when assisting an employee experiencing family and domestic violence and contain information about granting additional leave:

- Personal Leave Manager Fact Sheet;
- Miscellaneous Leave Manager Fact Sheet;
- Domestic and Family Violence Policy; and
- Domestic and Family Violence Resource Kit for Managers.

The Department's leave policy also provides flexibility to managers and employees to agree to paid or unpaid miscellaneous leave for reasons that are not covered by other leave types. There is no entitlement to miscellaneous leave, however managers have the discretion to grant miscellaneous leave taking into consideration operational requirements, the merits of each case, the Enterprise Agreement, the Leave Policy, and the Domestic and Family Violence Policy (which notes that compassion and discretion will be exercised where domestic violence is reported or suspected).

**(b) How is the provision of leave tracked in the Department of Jobs and Small Business?**

Employees are not required to record that they are using leave entitlements for domestic and family violence purposes. Therefore, the department does not collect data centrally.

**(c) How would you know if a supervisor in the Department of Jobs and Small Business is unreasonably withholding a discretionary grant of paid or unpaid leave for family and domestic violence**

Under the Domestic and Family Violence Policy, managers are encouraged to exercise compassion and discretion where domestic violence is reported or suspected. The department expects that all managers will support employees experiencing domestic and

family violence. An employee can escalate an issue to a senior manager, or People Branch, should it be necessary.

Training on domestic and family violence has been developed for managers and supervisors. Additionally, a domestic and family violence e-learning package was released in August 2018 for all employees to assist in understanding the forms of assistance available under the department's policies.



Australian Government

Department of Jobs and Small Business

# Domestic and Family Violence Policy

[jobs.gov.au](https://jobs.gov.au)

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## 1. Purpose

1.1. The purpose of this policy is to:

- a) detail the Department's commitment to supporting employees affected by domestic and family violence
- b) provide a framework to support employees who experience domestic and family violence
- c) act as a guide to managers and colleagues on how to support employees whose work life is affected by domestic and family violence.

1.2. For any queries regarding the operation of this policy please contact [People Branch](#).

## 2. Date of effect

2.1. This policy is effective from 20 December 2017.

## 3. Application

3.1. This policy applies to all employees in the Department of Jobs and Small Business.

## 4. Legislative framework

4.1. This policy needs to be read in conjunction with the Department of Employment Enterprise Agreement 2016-2019 (EA).

4.2 The *Public Service Act 1999* requires all APS employees to comply with the APS Code of Conduct, which provides that an APS employee, when acting in connection with APS employment, must:

- treat everyone with respect and courtesy, and without harassment
- at all times behave in a way that upholds the APS Values, APS Employment Principles and the integrity and good reputation of the APS; and
- comply with all applicable Australian Laws.

4.3 The Department, its contractors and agents are bound by the provisions of the *Privacy Act 1988* (Privacy Act), including the Australian Privacy Principles. Personal information may not be used or disclosed without appropriate consent unless that use or disclosure is otherwise permitted under the Privacy Act (for example disclosure is required or authorised by law).

4.4 Any use or disclosure of personal information by the Department, its contractors and agents will be in accordance with the Privacy Act.

## 5. Principle

- 5.1. Domestic and family violence is not just a private matter, it is also a workplace issue. Affected individuals often experience the impacts broadly across all elements of their lives, which can often flow to the workplace.
- 5.2. The Department commits to supporting employees and creating an environment where affected employees feel safe and are confident in seeking support without fear of judgement.

## 6. What is Domestic and Family Violence

- 6.1. Domestic and family violence is broadly thought of as being acts of violence that occur between people who have, or have had, an intimate relationship. While there is no single definition, the central element of domestic violence is an ongoing pattern of behaviour aimed at controlling through fear. This includes, but is not limited to:
  - physical violence
  - sexual assault and other sexually abusive behaviour
  - economic abuse
  - emotional or psychological abuse
  - stalking
  - kidnapping or deprivation of liberty
  - serious neglect where there is a relationship of dependence
  - damage to property, irrespective of whether the victim owns the property
  - causing injury or death to an animal irrespective of whether the victim owns the animal
  - verbal abuse
  - spiritual or cultural abuse
  - behaviour by the person using violence that causes a child to be exposed to the effects of domestic and family violence behaviours
- 6.2. Employees may sometimes experience situations of violence or abuse in their personal life which may affect their attendance or performance at work.
- 6.3. The Department recognises the potentially devastating impact this can have on the lives of those who experience abuse, including their capacity to work and their financial security. The Department is committed to supporting employees who experience domestic and family violence and providing a workplace environment that promotes flexibility at the time of need.



## Immediate danger

- 6.4. Whenever an employee feels unsafe in the workplace, the Security Hotline should be notified on (02) 6121 6100 or SDO Assist on (02) 6240 0777 or ext 47777 (option 7) or call 000.

## Confidentiality

- 6.5. Employees and managers are reminded of the need to maintain confidentiality and privacy in regard to personal information. Discussion should not include personal information without obtaining prior consent from the employee.
- 6.6. Managers and People Branch are able to advise and assist an employee as per the provisions of this policy.

## 7. Responsibilities

### Employees

- 7.1. Employees who wish to access support can contact any of the following people:
- Immediate managers or other colleagues in the first instance.
  - The Department's [Employee Assistance Program](#) (EAP). If needed, priority access can be facilitated by the [Performance and Wellbeing Team](#) in People Branch.
  - The 1800 RESPECT (1800 737 732) number which is a free, confidential, 24 hour community based helpline and counselling service which offers individualised assistance towards those affected by domestic and family violence.
- 7.2. Employees can also seek assistance from an external service. A list of services, including 24 hour support services, and their contact details can be found at [Attachment A](#).
- 7.3. Employees experiencing domestic and family violence may choose to disclose their situation to a trusted employee. Once an employee discloses, they should be supported through referral to this policy, the EAP, or any of the external support services listed at [Attachment A](#).
- 7.4. Employees who have had information disclosed to them should also ensure they feel supported, while at all times maintaining confidentiality. If required these employees should also seek support from the EAP or one of the external support services at [Attachment A](#).

### Managers

- 7.5. Where an employee seeks support from their manager in relation to domestic violence, the manager should provide advice to the employee about this policy. The manager may

also be required to help the employee access relevant supports. The manager can seek advice from People Branch as required.

- 7.6. Where a manager is concerned about the wellbeing of an employee, they should discuss their concerns with the employee, encouraging them to use the assistance available. The manager may consult with People Branch as required.
- 7.7. Managers should facilitate support for an employee to the fullest extent possible in the workplace.
- 7.8. If a manager needs support as a result of an employee disclosing family and domestic violence to them, they can contact the EAP or one of the external support services at [Attachment A](#).

## People Branch

- 7.9. People Branch is responsible for providing advice to employees and managers about this policy. They can also provide information on the leave provisions within the enterprise agreement and any other relevant procedures.
- 7.10. Where appropriate, People Branch may also coordinate support for employees through the Agency Security Adviser, the EAP or one of the external support services at [Attachment A](#).

## 8. Support for employees

- 8.1. The Department recognises that domestic and family violence can have a varied impact on an individual and that it is important to understand individual circumstances and choice in order to offer the most appropriate course of action.
- 8.2. Employees experiencing domestic or family violence may request flexible work arrangements or a range of internal and external support services, including:
  - hours of work (i.e. part-time hours or job sharing)
  - patterns of work (i.e. changes to start and finishing times)
  - locations of work (i.e. working from home or another safe environment)
  - outposting (i.e. perform duties in another departmental office in National Office or the State Network)
  - relocation to another departmental office (support may be provided to relocate family members)
  - a change of hours to meet family commitments
  - secure parking and other security measures where possible and as required
  - change of phone number and email address to limit unwanted contact
  - contact with police

- access to leave entitlements in accordance with the EA
  - any other measures or changes to normal arrangements that are considered appropriate
  - advance payment of salary.
- 8.3. Requests for flexible working arrangements will be granted, unless there is a business reason for the request to be refused.

## **Leave arrangements**

- 8.4. The Department is committed to supporting employees experiencing difficulties with domestic or family violence. A flexible and supportive approach will be taken to management of leave for employees affected by domestic or family violence.
- 8.5. The EA contains extensive leave entitlements which have been designed to assist employees and allow them flexibility to deal with personal crises, such as being affected by domestic or family violence.
- 8.6. Employees who are affected by domestic and family violence are able to access their personal/carer's leave entitlements consistent with personal/carer's leave provisions in the EA.
- 8.7. Under the EA personal/carer's leave entitlements may be used for:
- illness or injury affecting the employee, including resulting from domestic or family violence
  - to provide care or support to a family or household member who is ill or injured, including as a result of domestic or family violence or
  - to provide care or support to a family or household member who is affected by an unexpected emergency, including as a result of domestic or family violence.
- 8.8. In addition, the Department's Leave Policy provides that employees who are affected by domestic or family violence will also be allowed to access their personal/carer's leave entitlements for reasons including, but not limited to:
- attending medical or counselling appointments
  - moving into emergency accommodation and seeking more permanent safe housing
  - attending court hearings
  - attending police appointments
  - accessing legal advice
  - organising alternative care and educational arrangements for their children.
- 8.9. Employees may also access other leave including annual leave, long service leave and miscellaneous leave.

- 8.10. Flexibility in work hours and allowing employees to make up time where leave cannot be utilised should be given.
- 8.11. Where an employee's absence for reasons associated with domestic violence needs to be supported by evidence as per existing leave requirements, the delegate will discuss available options with the employee such as a statement from a legal representative or a court record.
- 8.12. Compassion and discretion will be exercised where domestic violence is reported or suspected.

### **Recording Absences**

- 8.13. While all leave needs to be entered into Connect, the purpose or reason for the leave is not recorded in order to maintain the privacy of the employee.

### **Advance payment of salary**

- 8.14. The Department can offer emergency financial assistance to employees through a salary advancement of up to \$5,000. This could assist with expenses such as relocation costs. The advance amount may be repaid over a period of up to 52 weeks from the date of payment. If the employee leaves the Department without having recovered the advance in full, any residual debt would be payable on departure. If the employee transfers to another APS agency, and depending on their agreement, arrangements may be made for repayments to continue and paid to the Department.
- 8.15. Emergency financial assistance up to \$5,000 by salary advancement may only be approved by the Branch Manager, People Branch.

### **Loan mobile phones**

- 8.16. Mobile phones can be used to abuse and they can also, if kept private, be an important way for employees to feel safe and secure. An employee experiencing domestic and family violence can seek to use a phone provided by the Department. A loan mobile phone is available to assist with personal safety if an employee has reason to believe their personal mobile phone or device may have been compromised. Employees or managers can contact People Branch to organise a phone. Phone costs will be paid by the employee.

### **Safety Planning**

- 8.17. Feeling safe at work is one way an employee affected by domestic and family violence can better manage their circumstances. Employees and their managers can prepare a Workplace Safety Plan with temporary or permanent arrangements where relevant.
- 8.18. The Workplace Safety Plan could include:

- programming mobile phones with emergency and contact numbers
- having a buddy system in place for walking to and from transport
- advising the Security Advisor of who and what to look out for
- screening incoming calls to the employee (i.e. divert calls to the switchboard or another appropriate contact)
- blocking emails
- changing working hours, patterns of work
- changing work phone number (contact SDO Assist on ext 47777)
- changing work location on a temporary or ongoing basis
- ensuring that legal protection orders extend to coverage at the workplace (where appropriate).

## 9. Working towards prevention

- 9.1. It is important that employees have an awareness of the nature, features and dynamics of domestic and family violence.
- 9.2. While the broad social context of gender inequality provides the underlying conditions and drivers of violence against women, a number of reinforcing factors can contribute to or exacerbate this violence. With its commitment towards supporting employees experiencing difficulties with domestic or family violence, the Department will:
  - implement gender equality strategies to drive cultural change through the *Balancing the Future: the Australian Public Service Gender Equality Strategy 2016–19*
  - strengthen positive, equal and respectful relationships between and among women and men
  - support initiatives by the Gender Equality Network on raising awareness amongst employees
- 9.3. The Department's Positive Attendance training program also raises awareness and provides advice to managers on this policy should an employee be affected by domestic and family violence.
- 9.4. The Department will use events such as White Ribbon Day and International Women's Day to celebrate the achievements and successes of women, and to serve as a forum for reaffirming the Department's commitment to the prevention and awareness of domestic and family violence.

## 10. Perpetrators of Domestic and Family Violence

- 10.1. The Department must be equally aware that in addition to there being employees who are victims of, or are affected by, domestic and family violence, there is likely to also be perpetrators and that this must also be handled appropriately and sensitively.

- 10.2. All employees are responsible for upholding the APS Values, Employment Principles and APS Code of Conduct and ensuring that their behaviour is consistent with these standards. Any act of violence or harassment is unacceptable and the Department will not tolerate nor endorse this type of behaviour. Help can be sought from a range of external providers including the EAP and others outlined in [Attachment A](#). In addition, employees can contact the Performance and Wellbeing Team (ext 43656) for further advice on available support services.
- 10.3. It is not acceptable to use our workplace to be abusive to those within or outside the workplace. Such behaviours may include:
- emailing, phoning or texting recipients of domestic and family violence or their supporters while at work
  - using work IT systems to access private information about recipients of domestic and family violence or their supporters
  - acting abusively towards other employees or clients
  - manipulating pay or roster systems to avoid child support or other obligations (this can be a form of financial abuse).
- 10.4. Should you witness any of the above behaviours you should contact the Agency Security Adviser or People Branch.

## Attachment A

### Further assistance

If you or someone you know is experiencing domestic and family violence, or you simply want to find out more, the following external services are available to provide information and assistance:

- 1800Respect – National sexual assault, domestic family violence counselling service (1800 737 732)
- The Department’s [Employee Assistance Program](#), 1300 360 364
- Lifeline’s 24 hour number who can help put you in contact with a crisis service in each State and Territory (131 114)
- [Relationships Australia](#) (1300 364 277)
- Mensline (1300 789 978)
- Domestic Violence Crisis Centre
  - ACT 02 6280 0900 (24 hour crisis line and client assistance)
  - NSW 1800 656 463 (24 hours)
  - NT 08 8945 1388 (Dawn House)
  - QLD 1800 811 811 (womensline 24 hours), 1800 600 636 (mensline 9am–12 midnight 7 days)
  - SA 1300 782 200 (24 hours)
  - TAS 1800 608 122 (Monday–Friday 9am–midnight, weekends and public holidays 4pm–midnight)
  - VIC 03 9921 0828
  - WA 1800 007 339 (womensline 24 hours), 1800 000 599 (mensline 24 hours)
- Department of Human Services – [Family and Domestic Violence Services](#) (support for people who are in, have left, or are preparing to leave a situation where they’re affected by family and domestic violence)
- [National Disability Insurance Scheme](#) – online information for employees with a disability
- [Safesteps](#) Family Violence Response Centre (1800 015 188 ) 24 hour service
- [Australian Indigenous Health Infonet](#) – Family violence (online information)
- [Another Closet](#) – Domestic and Family Violence in LGBTIQ Relationships (online information)
- [Penda](#) – an app that provides information on financial services, personal safety, housing and legal services

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Policy Owner	HR Policy, Metrics and SES
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The document must be attributed as the 'Domestic and Family Violence Policy'.





# Domestic and Family Violence Resource Kit for Managers

## Warning signs of domestic and family violence

If you know or suspect that someone in your team may be experiencing domestic and family violence, it may be difficult to know what to do. As a manager, there are things you can do to help make the situation safer.

Signs that someone in your workplace is experiencing domestic or family violence may include:

- unusual absences or lateness for work
- sudden or sustained drop in productivity
- unexplained injuries or injuries that do not fit the explanations of how they occurred
- scarves, long-sleeves or unseasonably warm clothing /excessive make-up
- sensitivity about home life or hints of trouble at home
- unusual signs of anxiety or fear
- frequent, upsetting phone calls, flowers, gifts at the workplace
- isolation, unusual quietness, keeping away from others.

An employee experiencing domestic or family violence may:

- be overwhelmed by fear which can govern their every move
- feel ashamed, guilty, embarrassed and isolated, which could lead them to being secretive about what they are experiencing
- believe that they are at fault and that by changing their behaviour the abuse will stop
- have conflicting emotions. They may love their partner, but hate the violence. They may live in hope that the behaviour will change
- be dependent upon their partner, emotionally and financially. Financial control is a significant barrier to leaving a situation of domestic and family violence
- feel resigned and hopeless and find it hard to make decisions about the future.

As a manager you are responsible for creating a supportive and safe working environment where employees can access services and support that will help them to become safer.

## How do I talk to a team member if I am concerned about their wellbeing?

If you are concerned about a team member you should approach them with genuine care and concern. Recognising that it is not your role to be a counsellor or to 'fix' the situation, reaching out and showing concern and providing an offer of support can make a big difference.

Discretion and privacy is paramount when having these conversations so it's important to ensure your team member is in a comfortable environment to enable them to discuss their situation more freely.

Things you can do to support your team member:

- Draw their attention to the Department's [Domestic and Family Violence Policy](#) and the [Resource Kit for Individuals](#).
- Reassure them that they have done the right thing by coming forward. Make sure they know that this will not reflect badly on them, e.g. "You did the right thing by talking to me. You are not on your own in dealing with this. I'm here to help and support you."
- If they have not spoken to anyone else, encourage them to seek the help of the Department's Employee Assistance Program (1300 360 364), or an external service provider at Attachment A of the Domestic and Family Violence that understands what they are going through and offers specialist support and advice.
- Listen carefully. They know more about their situation than anyone else. Respect their suggestions, needs and choices, e.g. "You know your situation best. I want to work with you to help keep you and everyone safe."
- Believe what they tell you. This is an opportunity to show your staff member respect which they may not experience at home.
- Express understanding. Tell them that you know personal issues can affect the workplace and work performance, e.g. "Sometimes things happen in our lives that we don't expect or can't choose. We can't always put a boundary between work and home, or the personal and the professional. What's important is to handle this in a way that keeps you and everyone else in our workplace safe."
- Try to be direct. Start by saying something like, "I'm worried about you because ....." or "I'm concerned about your safety..."
- Reassure them that the abuse is not their fault, e.g. "It's not your fault. No one deserves to be hurt. Abuse is not normal and it's not okay."
- Do not judge them, validate their feelings. They may feel hurt, angry, ashamed or trapped. They may love the person using violence and think that they can change. For example, "This must be really difficult for you. It's normal to feel a lot of conflicting emotions."
- Maintain privacy and confidentiality by not discussing the matter with anyone outside the Performance and Wellbeing Team.

- A person experiencing domestic and family violence is often very isolated with little meaningful support – you may be in a position to help them to develop or to keep up their outside contacts. This can help to boost self-esteem.
- Be patient. It can take time to recognise domestic and family violence and even longer to be able to make decisions about what to do.
- If you suspect they are in immediate danger, call the Performance and Wellbeing Team immediately.

## Overcoming the hesitation to help

It can be difficult and confronting to involve yourself in your team member's personal life. A person experiencing domestic and family violence may behave in a guarded manner and feel very sensitive about their situation.

Many of us have the same concerns about talking to a colleague we are concerned may be experiencing domestic and family violence. Here is another way of looking at these common concerns:

Points of concern	Points to Consider
You feel it's none of your business.	It could be a matter of life or death. Violence is everyone's business.
You don't know what to say.	Saying you care and are concerned is a good start.
You might make things worse.	Doing nothing is more likely to make things worse.
You are afraid the user of violence will turn on you and threaten the safety of the workplace.	Contact the Department's Security Hotline on (02) 6121 6100 or SDO Assist on (02) 6240 0777 or ext 47777 (option 7) or call 000. Let them know if you receive threats.
You are worried about maintaining confidentiality in the workplace.	Employees and managers need to maintain confidentiality and privacy in regard to personal information.
It's not serious enough to involve the police.	Police are trained to respond to situations like this. They also know how to bring in other resources from the community.

## Department resources and support services

If your team member is experiencing domestic or family violence it is likely they may need to be provided with increased flexibility in terms of their working arrangements. Your team member may need to take leave for a variety of reasons, including attending court, organising childcare or moving to new accommodation.

If your team member is concerned about access to leave, the Department's [Leave Policy](#) has provisions that, subject to an available entitlement, may be accessed by employees for absences related to domestic or family violence situations.

As well as greatly affecting your team member, situations of domestic and family violence can also impact the rest of the team and you may need to support them too if they are required to take on increased responsibilities.

The Department has a Parents' room available for instances where employees are temporarily required to attend the workplace with their child/children. Where the Parents' room is not available, please assist in identifying a suitable space such as a spare office or first aid room.

### Location/s of rooms available for family purposes

Office Location	Address	Office Location	Address
Canberra	Ground floor, 12 Mort St	Adelaide	Level 11, 11 Waymouth St
Sydney	Level 9, 215 Elizabeth St	Hobart	Level 12, 188 Collins St
North Ryde	Level 3, 5 Eden Park Dr	Brisbane	Level 9, 215 Adelaide St
Charlestown (Newcastle)	Level 3, 3 Hopetoun St	Townsville	Level 2, 19 Stanley St
Melbourne	Level 4, 414 La Trobe St	Darwin	Level 3, 39-41 Woods St

### [Performance and Wellbeing Team, People Branch](#)

For assistance please contact the Performance and Wellbeing Team on 02 6240 3656. You can also email the team directly at [performanceandwellbeing@jobs.gov.au](mailto:performanceandwellbeing@jobs.gov.au).

The Performance and Wellbeing Team can coordinate support for employees through the Department's Security Adviser, the EAP or one of the external support services. All matters will be handled in strict confidence and done so with respect and courtesy.

The Performance and Wellbeing Team also incorporates the Department's Work Health Safety function – you can contact WHS on 02 6240 9733 or at [WHSmailbox@jobs.gov.au](mailto:WHSmailbox@jobs.gov.au).

### [Employee Assistance Provider](#)

The EAP Manager Hotline is a confidential service supporting managers and senior leaders. The Manager Hotline is supported by experienced counsellors who have previously worked in senior roles in business and understand the challenges faced by managers.

The Manager Hotline is available through two channels - over the phone and online. You can speak with someone immediately or arrange an appointment for a telephone consultation or face-to-face consultation with the EAP at a convenient time.

You can access the Manager Hotline by calling Benestar 1300 360 3648.

### Protective Security

Concerns about a person's safety in the workplace should be directed to the Department's Security Hotline on 02 6121 6100.

## External Support Services

- 1800Respect – National sexual assault, domestic family violence counselling service (1800 737 732)
- The Department's [Employee Assistance Program](#), 1300 360 364
- Lifeline's 24 hour number who can help put you in contact with a crisis service in each State and Territory (131 114)
- [Relationships Australia](#) (1300 364 277)
- Mensline (1300 789 978)
- Domestic Violence Crisis Centre
  - ACT 02 6280 0900 (24 hour crisis line and client assistance)
  - NSW 1800 656 463 (24 hours)
  - NT 08 8945 1388 (Dawn House)
  - QLD 1800 811 811 (womensline 24 hours), 1800 600 636 (mensline 9am–12 midnight 7 days)
  - SA 1300 782 200 (24 hours)
  - TAS 1800 608 122 (Monday–Friday 9am–midnight, weekends and public holidays 4pm–midnight)
  - VIC 03 9921 0828
  - WA 1800 007 339 (womensline 24 hours), 1800 000 599 (mensline 24 hours)
- Department of Human Services – [Family and Domestic Violence Services](#) (support for people who are in, have left, or are preparing to leave a situation where they're affected by family and domestic violence)
- [National Disability Insurance Scheme](#) – online information for employees with a disability
- [Safesteps](#) Family Violence Response Centre (1800 015 188 ) 24 hour service
- [Australian Indigenous Health Infonet](#) – Family violence (online information)
- [Another Closet](#) – Domestic and Family Violence in LGBTIQ Relationships (online information)



# Miscellaneous Leave

## Manager fact sheet

Miscellaneous leave provides flexibility to managers and employees to agree to paid or unpaid leave for reasons that are not covered by other leave types. There is no entitlement to miscellaneous leave and decisions need to be made based on operational requirements, the merits of each case, the preserved terms and conditions of the Employment Enterprise Agreement and the Leave Policy.

### What do I need to know?

- EL 2s or above may approve up to five days paid miscellaneous leave only, in accordance with the Leave Policy.
- Branch/State Managers or above can approve up to 12 months of unpaid miscellaneous leave subject to operational requirements in accordance with the preserved terms and conditions of the Employment Enterprise Agreement and Leave Policy.
- It is expected that employees who apply for long periods of unpaid miscellaneous leave for recreational or personal reasons will have worked continuously with the Department for at least two years.
- Any miscellaneous leave without pay for over 12 months must be approved by the Director, HR Policy, SES and Metrics Team, People Branch.
- Applications for employees to undertake outside employment while on 12 months miscellaneous leave without pay must be approved by the Director, HR Policy, SES and Metrics Team, People Branch.
- Employees who are required to fulfil Defence Reserve or Full Time Australian Defence Force obligations can access 20 days paid miscellaneous leave per year and an additional two weeks in their first year to undertake recruitment or initial employment training.

### What should I consider when approving leave?

- The employee's circumstances and reasons for requesting leave.
- Benefit to the Department or APS.
- Community norms and obligations (defence service, jury duty).
- Impact on operational requirements.
- Options for using time other than work time.

- Long term ramifications (budget, staffing).
- Any precedents which may be set by approving the leave.

## Practical tips

Before making a decision or discussing an application, refer to the [Leave Policy](#) to ascertain whether an employee's application is for a valid reason and that you are the correct delegate.

- Ensure a consistent approach to leave requests noting the need to consider individual circumstances.
- Having one or more employees on long term leave can present future budget and staffing issues. Address these issues when considering a request.
- Consider whether an alternative period of leave can be accommodated if there are concerns regarding the period requested.
- If you have concerns or are unsure seek advice from the [HR Policy Team](#), People Branch.

## Common issues

### Miscellaneous leave without pay for over 12 months

- Applications for recreational reasons such as overseas holidays or to pursue other employment will generally not be approved.
- Applications to accompany a spouse/partner on an interstate posting for the period of an initial posting of 12 months will usually be supported.
- Applications to accompany a spouse or partner on an overseas posting with an Australian Government Agency will usually be approved for an initial period of the posting.

### Paid miscellaneous leave for over five days

- These are assessed on a case by case basis and advice should be sought before indicating whether or not the leave is likely to be approved.
- Delegation to approve paid miscellaneous leave over five days is held in People Branch.

## More information

More information on miscellaneous leave can be found in clauses 160-163 of the Employment Enterprise Agreement 2016-2019 and the Leave Policy.

The Department's [HR delegations](#) are available on the intranet.

For policy advice, email the HR Policy team at [hrpolicy@jobs.gov.au](mailto:hrpolicy@jobs.gov.au).

The Pay Team can also help with administrative questions at [payroll@sdo.gov.au](mailto:payroll@sdo.gov.au).



# Personal Leave

## Manager fact sheet

Personal leave provides employees access to paid leave when they are absent from work due to personal illness or injury, short term caring purposes or for special or exceptional circumstances.

### What do I need to know?

- Employees accrue up to 18 days per calendar year (pro-rata for part-time employees), credited on 1 January each year.
- Personal leave accumulates from year to year and follows an employee when they transfer to another APS agency.
- Personal leave is not paid out when an employee leaves the Department.
- Employees must inform their manager as soon as practicable of the nature and expected duration of their absence. The expectation is that this would be before 10 am on the first day of absence.
- Employees must provide documentary evidence upon their return to work, for continuous absences of more than three working days.
- Personal leave may be accessed for special or exceptional circumstances, including domestic violence situations.
- Personal leave for caring or support purposes has to be related to an illness or injury of a member of the employee's family or household who is affected by an unexpected emergency, special circumstances or who has disability.
- Unpaid personal leave may be available where an employee has exhausted all their personal leave credits. Managers may request documentary evidence for any period of unpaid personal leave.
- Employees may access one moving day where moving within the State or Territory or two days if moving interstate per year. For National Office employees, areas in close proximity to Canberra are not considered interstate.

### What should I consider when approving leave?

- What is the purpose of the leave?
  - Personal illness or injury?
  - Caring for family due to illness or injury?



- Other circumstances?
- Is medical documentary evidence or another form of evidence required?
- Is the leave part of a pattern and does that pattern indicate other issues that may be affecting the employee's performance?
- If it is for a reason other than personal or family illness or injury, is this a valid reason under the Leave Policy?
- Were you notified of the absence appropriately?

## Practical tips

To avoid confusion or disputes, set common expectations with the whole team on who to notify when taking personal leave, and in what manner that should occur, for example contact immediate supervisor via phone or if unavailable the next level of manager. If necessary, you may consider including these in individual Performance Agreements or as expected team behaviours.

## Common issues

### Misuse of personal leave

- Personal leave is not to be used for absences related to school holidays or pupil free days.
- If you identify patterns of personal leave and suspect that the employee may be misusing their leave, the first step is to have a discussion with the employee to explore whether there is a particular reason for this pattern. You should explain the pattern you have observed, outline your concerns and give them an opportunity to respond.
- If there is a reasonable explanation for the pattern, explore whether the issues can be addressed through flexible work arrangements or support through the EAP.
- If the explanation is not reasonable in your view, you should outline the expectations of the work area and make it clear that the employee is required to act consistent with those expectations.
- If there is no improvement, contact People Branch for advice on a way forward.

### What is appropriate evidence?

- Medical certificates from registered health practitioners for personal illness, injury or caring responsibilities.
- Statutory declarations may be appropriate where medical certificates are unavailable and should state the reason for the absence and why it was impractical to obtain medical documentary evidence.

### Can personal leave be used for caring purposes?

- Personal leave is not a solution to long term caring purposes. Personal leave may only be used for short term caring situations, such as where the employee's child or family member has an illness or injury.

## More information

More information on personal leave can be found in clauses 125-139 in the Employment *Enterprise Agreement 2016–2019* and in the Leave Policy.

The Department's [HR delegations](#) are available on the intranet.

For policy advice, email the HR Policy team at [hrpolicy@jobs.gov.au](mailto:hrpolicy@jobs.gov.au) or x65550.

For advice about performance management or managing an employee who is ill or injured, contact the Performance, Learning and Wellbeing Team at [PerformanceandWellbeing@jobs.gov.au](mailto:PerformanceandWellbeing@jobs.gov.au) or x43656.

The Pay Team can also help with administrative questions at [payroll@sdo.gov.au](mailto:payroll@sdo.gov.au).