

**Queensland Centre for Domestic and Family Violence Research**

*Insights from Literature*

# 7 Guiding Principles for Workplaces: Domestic Violence Provisions

**August 2018**

**Prepared by:**

Terese Kingston, Research Officer, QCDFVR, CQUniversity



## 7 Guiding Principles for Workplaces: Domestic Violence Provisions

Approximately two thirds of women who report violence by a current partner are in paid employment (ABS, 2005). A national study on domestic violence (DV) in the workplace conducted in Australia in 2011 found that 19% of workers who reported DV identified that the abuse and harassment continued at their workplace (McFerrin, 2011). This abuse involved **threatening phone calls, text messages and emails**, as well as instances of the **perpetrator physically attending** their workplace (McFerrin, 2011).

Other studies have found that perpetrators also attempt to **prevent victims from attending work**, or cause them to be late through actions such as inflicting physical injuries, refusing to care for children and hiding car keys (Swanberg, Logan & Macke, 2005). These tactics impact upon victim's abilities to perform well in their jobs, and can result in a more disrupted work history. Victims are consequently often on lower incomes, have to change jobs more often and are more likely to work in casual and part time employment (Franzway, Zufferey & Chung, 2007).

A national study additionally found that other workers were also often impacted by co-workers experiences of domestic and family violence (McFerran, 2011). In some cases, perpetrators extended their harassing and abusive behaviour to other employees and managers, potentially placing them at risk (McFerrin, Cortis & Trijbetz, 2013) as well as negatively **impacting upon their productivity through** increased levels of **stress and anxiety** (Johnson & Indvik, 1999). From an organisational perspective, domestic and family violence is projected to cost the Australian economy \$15.6 billion in 2021-22, of which \$609 million is expected to represent productivity losses alone (FaHCSIA, 2009).

Organisations are increasingly viewing responding to domestic and family violence as part of their social and corporate responsibility. A number of studies have identified stable employment as a key protective factor in ensuring financial security and independence, and in enabling victims to leave violent relationships (Costello, Chung & Carson, 2005; McLaren, 2013). From the organisation's perspective, it is in their interests to offer support to victims of

domestic and family violence to address issues such as absenteeism, decreased productivity, costs associated with staff turnover, training new employees, and the loss of organisational knowledge (Willness, Steel & Lee, 2007; Campbell, 2011).

Additionally, there are a number of industrial/legislative considerations which should shape an organisation's response to domestic and family violence, including the organisation's duty of care responsibilities under occupational health and safety laws in Australia; vicarious liability claims (if both victim and perpetrator work for the same employer); and s65 of the Australian Fair Work Act (2009) which explicitly states that an employee may request changes in their work schedule and/or location if they are experiencing, or supporting someone experiencing, domestic or family violence.

The importance of creating and introducing a standardised approach by workplaces to enable employees impacted by domestic and family violence to stay in their jobs was identified by researchers at the Australian Domestic & Family Violence Clearinghouse, who then approached the trade union movement for assistance in developing a model domestic violence clause (Baird, McFerrin & Wright, 2014).

In 2010 the first clauses providing for paid leave and other entitlements for victims of domestic and family violence were included in union negotiated agreements registered with the Australian Fair Work Commission (Baird et al., 2014). There are now over 700 workplace agreements to support workers experiencing domestic violence across a range of industries, including health, education, social and community sectors, finance, public sector and local government (ACTU, 2016).

The Australian Fair Work Commission handed down a decision in March, 2018, ruling that workers covered by modern awards were entitled to access up to five unpaid days of domestic violence leave per year. This clause applies following the first full pay period after August 1<sup>st</sup>, 2018 (Fair Work Commission, 2018). The Australian Council of Trade Unions continues to

campaign for paid domestic violence leave and provisions, based on the seven key principles below:

**Key Principles:**

1. Dedicated additional paid leave
2. Confidentiality of employees details
3. Workplace safety planning strategies
4. Referral to appropriate support services
5. Provision of specialised training (and paid time off work to complete) for nominated persons (including HR, union delegates, OHS reps as necessary)
6. Those entitled to DV leave should also be able to access flexible working arrangements as necessary
7. Employees must be protected against discrimination as a result of disclosure, experience or perceived experience of DV.

**Further information**

The Australian Council of Trade Unions (ACTU) Domestic and family Violence leave Clause can be found here: <https://www.actu.org.au/media/886613/actu-model-family-and-domestic-violence-leave-clause-revised-18-march-2.pdf>

Factsheets about domestic and family violence, including domestic violence and the workplace, can be accessed here: <https://noviolence.org.au/resources/fact-sheets/online/>

The Fair Work Commission's domestic and family violence leave decision can be accessed here: <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2018fwcfb1691-summary.pdf>

## References

Australian Bureau of Statistics (2005). *Personal Safety Survey, Australia*, (Reissue), Cat. No. 4906.0. Retrieved from [http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4906.02005%20\(Reissue\)?OpenDocument](http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4906.02005%20(Reissue)?OpenDocument)

Australian Council of Trade Unions. (2016). *Domestic violence*. Retrieved August 13<sup>th</sup>, 2018 from <https://www.actu.org.au/our-work/policy-issues/domestic-violence>

Baird, M., McFerrin, L., & Wright, I. (2014). An equality bargaining breakthrough: Paid domestic violence leave, *Journal of Industrial Relations*, 56(2), 190-207.

Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). (2009). *The Cost of Violence Against Women and their Children*. Canberra: Commonwealth of Australia.

Campbell, R. (2011). *The Financial Cost of Family and Domestic Violence*, Sydney: Australian Domestic and Family Violence Clearinghouse, University of new South Wales.

Costello, M., Chung, D. & Carson, E. (2005). Exploring alternative pathways out of poverty: Making connections between domestic violence and employment practices. *Australian Journal of Social Issues* 40(2), 253-267.

*Fair Work Act 2009* (Cth) (Austl.).

Fair Work Commission. (2018). 4 yearly review of modern awards: Family and Domestic Violence leave, Retrieved August 13<sup>th</sup>, 2018 from <https://www.fwc.gov.au/documents/decisionssigned/html/2018fwcfb3936.htm>

Franzway, S., Zufferey, C., & Chung, D. (2007). *Domestic Violence and Women's Employment*, presented at 'Our Work, Our Lives 2007: National Conference on Women and Industrial Relations', 20-21 September 2007.

Johnson, P.R. & Indvik, J. (1999). The organisational benefits of assisting domestically abused employees. *Public Personell Management*, 28(3), p. 368.

McFerran, L. Safe at Home, Safe at Work? National Domestic Violence and the Workplace Survey (2011), p 17.

McFerrin, L. (2011). *Key Findings – Safe at Home, Safe at Work? National Domestic Violence and the Workplace Survey*, Sydney: University of new South Wales.

McFerrin, L., Cortis, N. & Trijbetz, T. (2013). *Domestic and Family Violence Clauses In Your Workplace: Implementation and Good Practice*. Sydney: Social Policy Research Centre & Centre for Gender Related Violence Studies, University of New South Wales.

McLaren, H. (2013). Domestic violence, housing and employment: Workers' perspective on employment assistance in supported accommodation, *Australian Journal of Social Issues*, 48, 415-433.

Swanberg, J., Logan, T. & Macke, C. (2005). Intimate partner violence, employment, and the workplace: Consequences and future directions. *Trauma Violence Abuse* 6, 209-226.

Willness, C.R., Steel, P., & Lee, K. (2007). A meta-analysis of the antecedents and consequences of workplace sexual harassment, *Personnel Psychology*, 60(1), p. 133.