

UNDERSTANDING THE **CHANGES** TO FAMILY AND DOMESTIC VIOLENCE LEAVE ENTITLEMENTS



Did you know that family and domestic violence leave (FDV leave) entitlements for employees of small businesses (businesses with less than 15 employees) are changing?

You need to make **changes** to how you do things.

What do you need to know?

- The change **starts** on 1 August 2023.
- Your employees are entitled to **paid** leave at their usual rate of pay.
- Your employees can access up to **10 days** of FDV leave in a year.
- This leave is available as soon as an employee starts working for you.

This **replaces the previous** entitlement of 5 days unpaid FDV leave.

As a small business, there are things that you **must do** to comply with the new legislation.

There are also things that are **good to do** to take this to the next level to make sure you are providing the people that work for you with a safe and supportive workplace.

What you need to know about FDV leave

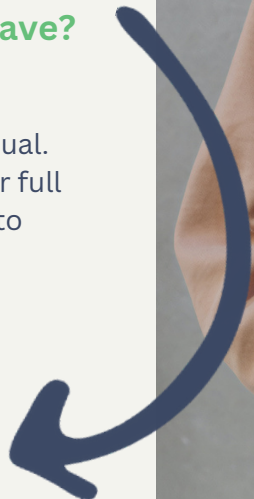
- All employees are entitled to FDV leave, including part-time and casual employees.
- To be eligible, employees must be experiencing family and domestic violence and need to do something to deal with its impacts that is impractical to do outside of work hours. They are entitled to:
 - up to 10 days of leave which is available, in full, immediately.
 - be paid at their full rate of pay.
- The leave resets on each employee's annual work anniversary.
- The leave does not accrue from year to year.
- The leave can be taken all at once, as one or more days at a time, or as part-days if you agree.

Which businesses does this apply to?

- Businesses with fewer than 15 employees.
- This change started for larger businesses on 1 February 2023.
- Small businesses were given an additional 6 months to get ready.

Which employees can take this leave?

- **All** employees can take this leave.
- They can be full-time, part-time or casual.
- **Casual employees** should be paid their full rate for the hours they were rostered to work in the period they take leave.



What needs to be happening for someone to take this leave?

Your employee needs to be **experiencing** family and domestic violence.

- This means they are experiencing violent, threatening or other abusive behaviour by someone close to them.
- This may be a close relative, someone that lives with them, or their partner or ex-partner.
- You can find a definition of “close relative” on the Fair Work website [fairwork.gov.au](https://www.fairwork.gov.au).
- This person is causing them **harm** or making them feel **afraid**, or is **making them do things** they don't want to do or is **trying to control** them.
- It would **not** include arguments with workmates, neighbours and friends, unless they are a member of the same household.

A close relative is:

- an employee's
 - spouse or former spouse
 - de facto partner or former de facto partner
 - child
 - parent
 - grandparent
 - grandchild
 - sibling
- an employee's current or former spouse or de facto partner's child, parent, grandparent, grandchild or sibling
- a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.



Your employee needs to **do something to deal with the impact** of family and domestic violence, such as go to the doctor, get legal advice, get themselves to safety.



It's **impractical** for your employee to do the above outside their working hours.



What can employees use the leave for?

It is important to remember that the reason for this leave is to make sure that people who are experiencing family and domestic violence can be **safe**.

When people are experiencing family and domestic violence, it can be hard to get themselves to safety outside of working hours.

This might be because the person they are afraid of is home, or the services and supports that they need to access aren't available outside of work hours.

Employees can take leave to do things like:

- make a plan for their safety
- get financial advice
- speak to a counsellor
- see a doctor or other medical specialist
- get legal advice
- find a safe place to live
- go to court
- go to the police
- look after their children.





What leave process should be followed?

If your employee needs to take FDV Leave, they should follow the usual process for applying for leave, where appropriate (ensuring that confidentiality is maintained). Having a policy to support your employees is important because there are a range of unique elements to requesting FDV leave. Make sure you update your leave policies to incorporate FDV leave.

Make this clear by updating your leave policies to incorporate FDV Leave.

You can ask your employee:

- to provide you with notice of leave as soon as possible
- to provide you with dates of leave or, if uncertain, the period of leave (if possible)
- to let you know about the leave as soon as possible.

Remember, it can be difficult to plan for a crisis so you may not know about the leave until after it starts. Under the law, your employee's right to take leave is protected in these circumstances.

You can read more about leave processes in our **"FDV leave and payment processes"** resource.

Do you need to ask for evidence?

No, you don't have to.

If you do want to ask for evidence, you **can** ask your employee to show that they need to take (or took) the leave to deal with family and domestic violence that's not practical to do outside of their hours of work.

Evidence may include, but is not limited to:

- documents issued by police or the court
- family violence support service documents
- statutory declarations
- documents issued by a doctor.

If you do ask your employee for evidence, approach this sensitively and allow for the fact that they may need time to provide it.

You can ask to see evidence or ask for a copy for your records. If you are keeping a record of the evidence, you must comply with the privacy and confidentiality requirements on the next page.



10dayspaidFDVleave.com.au



Maintaining privacy and confidentiality

It is important to be very clear on what information you are and are not **allowed** to share with other people.

If you find out that an employee is experiencing family and domestic violence, you might feel **worried** about them and want to keep them safe. You might think you **have to tell** someone, like the police. Mostly, it is **up to the person** experiencing family and domestic violence to decide who they tell and what help they get.

FDV leave records and any information or evidence provided by your employee should be kept **confidential**.

The **only times** that you can share this information without their agreement is if:

- you are required to share the information by **law**
- you need to share the information to **protect** the life, health or safety of your employee or another person
- your employee **consents** to you sharing this information.

You can find more information in our "**Respecting privacy and confidentiality**" resource.

Recording leave on pay slips

- Pay slips **must not** mention family and domestic violence leave, including any leave taken or remaining leave balances.
- Instances of FDV leave taken must be shown on pay slips as **time worked** or another kind of payment for performing work.
- Your employee can request that it be shown as **another type of leave** (e.g., annual or personal leave) but do not do this unless it is specifically requested.

You can find more information about payment process and pay slips in the "**FDV leave and payment processes**" resource.

What other support can employees ask for?

As well as paid FDV leave, your employee can ask:

- for **flexible** working arrangements – you can find more information in the "**Flexible work policy**" resource
- to take **paid** personal/carer's leave or other leave
- to take **unpaid** personal/carer's leave or other leave.



Want more information?

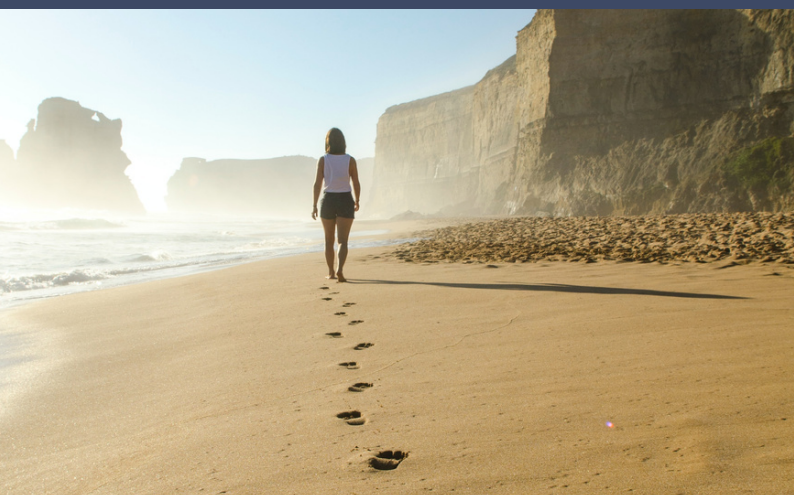
1800RESPECT is the national service for anyone impacted by domestic and family violence, including employers. Call 1800RESPECT on 1800 737 732 or chat online via the website [1800RESPECT.org.au](https://1800respect.org.au). The service is available 24 hours a day 7 days a week, for information, counselling and referrals.

For further advice about your workplace rights or information about how to deal with workplace disputes, refer to the Fair Work Ombudsman at fairwork.gov.au or fairwork.gov.au/leave/family-and-domestic-violence-leave/paid-family-and-domestic-violence-leave



National referral and support pathways

- 1800RESPECT (national domestic, family and sexual violence counselling, information and support service. Available 24/7) 1800 737 732
- Call 000 in an emergency
- Lifeline (general support) 13 11 44
- Beyond Blue (general support) 1300 224 636
- Relationships Australia (relationship issues) 1300 364 277
- Full Stop Australia (domestic, family and sexual violence support) 1800 385 578
- Men's Referral Service (advice for men about family violence) <https://ntv.org.au/mrs/> 1300 766 491
- MensLine Australia (general men's issues) 1300 789 978
- Community Legal Centres Australia (legal help) (02) 9160 9500
- Rainbow Sexual, Domestic and Family Violence helpline (support for LGBTIQ+ community) 1800 497 212
- National Aboriginal and Torres Strait Islander Legal Services (legal support for Aboriginal and Torres Strait Islander people) 0490 534 572
- 13Yarn (support for Aboriginal and Torres Strait Islander people) 13 92 76
- Blue Knot Foundation Helpline (support for adult survivors of childhood trauma) 1300 657 380
- National Counselling and Referral Service – Disability (support for people living with a disability) 1800 421 468
- Kids Help Line (all areas of support for kids/teens) 1800 551 800
- WellMob - wellmob.org.au
- No to Violence - ntv.org.au
- Say It Out loud - sayitoutloud.org.au
- Daisy app: 1800respect.org.au/daisy



This resource is an initiative of the Australian Government Department of Employment and Workplace Relations (DEWR).