

LEAVE AND PAYMENT PROCESSES



KEY TAKEAWAYS

- Your employee's information is private. You must not share it.
- An employee can take paid FDV leave as a single continuous 10-day period OR the leave can be taken as single or multiple days, or part days (if you and your employee both agree).
- Your employee is entitled to their full rate of pay.
- You must not record family and domestic violence leave (FDV leave) on any pay slips.
- You may need to update your payroll processes (including your payroll software if you have it).

It's important to make sure that your leave and payment processes and systems incorporate paid FDV leave.

If you have a payroll provider, talk with them to make sure the system can meet the requirements.





FDV LEAVE UNDER THE MICROSCOPE

- Applies to full-time, part-time and casual employees.
- Is paid at the full rate of pay, based on the employee's usual work hours or hours they were rostered to work.
- Up to 10 days per year are available it's available in full upon starting work.
- The 10 days of leave renew every year on each employee's work anniversary (i.e. FDV leave is topped up to 10 days on the annual anniversary, but it does not add up from year to year if it's not used).
- Doesn't add up from year to year if it isn't used.
- Can be taken all at once, or as one or more days at a time, or as part-days.
- Must be kept confidential.



EXAMPLE

Sam, a hairdresser covered under the National Employment Standards, started work with XYZ Hairdressing Ltd on 1 February 2024.

Sam, who is experiencing family and domestic violence, takes three days of paid FDV leave in September to find safe accommodation and attend a counselling session.

They then take an additional day in December to attend a court hearing.

On 1 February 2025, Sam's work anniversary, their FDV entitlements are reset. Sam now has 10 days of paid FDV leave available to use in the next 12 months.

On 1 February 2026, Sam's entitlements will again reset to 10 days of paid FDV leave.



Most payroll software providers have information freely available on their websites to help you through the process of updating your payroll for paid FDV leave.



WHAT DOES 'FULL RATE OF PAY' MEAN?

Full-time and part-time employees can take paid FDV leave at their **full pay rate** for the hours they would have worked if they weren't on leave.

That means their **base rate plus** any:

- Incentive-based payments and bonuses.
- Loadings.
- Monetary allowances.
- Overtime or penalty rates.
- Any other separately identifiable amounts that the employee would have received had they worked rather than taking FDV leave.

Casual employees will be paid at their full pay rate for the hours they were rostered to work in the period they took leave. For example, if the casual employee was rostered to work five hours on a day when they need to take FDV leave, they would be paid for the five hours.

Casual employees can also take unpaid leave on days they are not rostered to work but you don't have to pay them for these days – this is a workplace right. It means they can't be treated adversely for not being available to take on additional work, for example.

For information about family and domestic violence leave entitlements, go to the Fair Work Ombudsman website: fairwork.gov.au/leave/family-and-domestic-violence-leave

EXAMPLE SCENARIOS

Scenario 1

Thea's employer texts her at the start of the month with the shifts she will be working over the next four weeks. Thea is rostered to work one Saturday, but she needs to take a day of family and domestic violence leave.

Thea is entitled to a day of paid leave on that day. Because Thea gets time and a half on Saturdays, her leave payment is also calculated at the time and a half rate.

Scenario 2

Jane is a casual employee. Her employer emails her on Monday and asks if Jane can come in for 4 hours on Thursday to backfill another staff member. Jane tells her employer she is happy to work the extra shift. On Thursday, Jane needs to take a day of family and domestic violence leave.

Because Jane has been offered and accepted the extra shift, she is entitled to 4 hours of FDV leave on Thursday.

CONFIDENTIALITY

You must make sure that confidentiality requirements are met.

You must not tell your payroll provider or any other person if your employee is taking FDV leave without your employee's consent.

You can find more information about confidentiality requirements in the “**Privacy and Confidentiality**” resource.

Recording leave on pay slips

- Pay slips must not mention FDV leave, including any leave taken or remaining leave balances.
- Periods of FDV leave taken must be shown on pay slips as time worked or another kind of payment of performing work, such as an allowance, bonus or overtime payment.
- Your employee can request that it be shown as another type of leave (e.g. annual or personal leave).

UPDATE YOUR PAYROLL SYSTEM

- To ensure it provides employees up to 10 days of paid FDV leave per year, at the full rate of pay the employee would have received had they not taken leave (full-time and part-time employees) or their full rate of pay for the hours in the period for which they were rostered (casual employees).
- To ensure there's no mention of FDV leave, including leave taken or leave balances, on any pay slips.
- Make sure that leave taken can be recorded as time worked; or another kind of payment of performing work, such as an allowance, bonus or overtime payment; or the employee can request that it be shown as another type of leave.
- To make sure that confidentiality requirements are being met.

Make sure you're keeping a separate, confidential record of your employees' leave balances, including their entitlements to FDV leave and leave taken.

WHAT LEAVE PROCESS SHOULD BE FOLLOWED?

Remember, it can be difficult to plan for a crisis so:

- You may not know about the leave until after it starts.
- Employees may not be able to provide much, or any, advance notice if they need to take FDV leave.
- You **can** ask your employee for evidence 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.

You should consider this when developing a process for employees to apply for FDV leave. Under the law, your employee's right to take leave is protected in these circumstances.

If your employee needs to take FDV leave, in most cases, they should follow the usual process for applying for leave (ensuring that confidentiality is maintained).

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

It's reasonable to ask your employee:

- To let you know about the leave as soon as possible.
- To advise you of the period, or expected period, of the leave.





WHAT IF YOUR EMPLOYEE ASKS FOR THIS LEAVE WHILE THEY ARE ON ANOTHER TYPE OF LEAVE?

There may be times where an employee needs to use FDV leave during periods of other types of leave, such as:

- Personal leave..
- Annual leave.
- Long service leave.

In this case, the employee is **no longer on the other form of paid leave and is taking paid FDV leave instead.**

You **must not make deductions** from other leave accruals for that employee for the period of FDV leave taken. If any deductions have already been made, these should be reimbursed and FDV leave used instead.

WHAT IF YOUR BUSINESS HAS MORE GENEROUS PROVISIONS?

If your business has more generous FDV leave provisions, for example, through an enterprise agreement or policy, then those standards will apply.

However, you still need to make sure the eligibility, confidentiality and other requirements under the Fair Work Act are met.

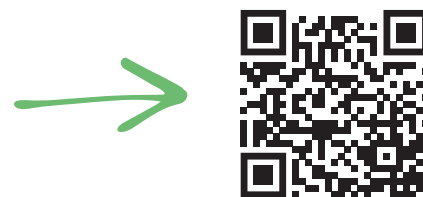
WANT MORE INFORMATION?

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.

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/leave/family-and-domestic-violence-leave/paid-family-and-domestic-violence-leave



10DaysPaidFDVLeave.com.au

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