

NEGOTIATING DOMESTIC VIOLENCE CLAUSES

Why is Paid Leave Important

Domestic Violence clauses are important inclusions in enterprise agreements.

Although the clauses are not gender specific, statistics indicate nearly two thirds of women who report domestic violence are employed. Domestic violence clauses not only provide agreed provisions for employees affected by domestic or family violence they also bring awareness to this significant social and economic problem.

Negotiating Leave Provisions In Agreements

The National Employment Standards (NES) provide for 5 days of unpaid leave each year for employees who experience family or domestic violence and allow time off to access services such as but not limited to legal advice, finding emergency accommodation, talking to counsellors and attending court.

The AWU, other unions and the ACTU have been campaigning for paid leave of 10 days per annum for workers who experience family or domestic violence. Submissions and appearances before the Fair Work Commission have to date been unsuccessful. However, the AWU has been successful in negotiating paid leave in various enterprise agreements.

Some employers have a Domestic and Family Violence policy. If your employer does, make sure it is easily accessible for employees. If you have an enterprise agreement at your workplace, it is preferable to have the policy detailed in your agreement, especially if there is a paid leave component, or if this is not possible, have the policy referred to in your enterprise agreement in the leave provision section. Otherwise, your employer may have the discretion to change the policy in the future without your agreement.

It can be difficult to negotiate a desired quantum of 10 days paid leave per year in an agreement, however there may be merit in negotiating with your employer for lower amounts.

That is, if an employer pays at least one day of paid leave per year, that is better than the current 5 days unpaid leave the NES provides. Whatever amount you are successful in negotiating, the NES unpaid provision of 5 days will still apply, for example, your employer may agree to pay an employee one days paid leave, but the affected employee would still be entitled to 5 days of unpaid leave as per the NES.

The rationale here is that if an employer only allows an employee to access the NES provisions of 5 days unpaid leave per year, employees may be inclined to apply for paid personal leave instead, if they have any, as employees experiencing any form of violence may be financially challenged and taking unpaid leave may put more financial pressure on them. Also, tracking statistics of employees who access paid personal leave instead of unpaid domestic violence leave skews data and makes it difficult for unions and the ACTU to campaign for paid domestic violence leave because it under-represents the extent of the problem.

Also, it stands to reason if an employee is experiencing any form of family or domestic violence in their personal lives and requires time from their employment to access help, that if an employer is aware of this they may offer or provide other support and resources to the employee.

Why Support Employees Who Are Victims

It is vitally important that where possible employees experiencing domestic violence are able to stay safely in their homes and in their jobs. Economic dependency keeps people trapped in violent relationships.

Women with a history of family violence have a more disrupted work history, are on lower personal incomes, have had to change jobs more often and are more likely to have insecure employment in casual and part time work than women with no experience of violence.

Domestic violence and sexual assault perpetrated against women costs the national economy over \$13 billion each year and the cost to employers includes lost productivity, absenteeism, staff turnover and increased recruitment and retraining.

Confidentiality And Safety

Confidentiality of employee details must be assured and respected. Employee records concerning domestic violence should only be accessed by authorised personnel and with the employee's approval.

How Employers Can Support Employees

It is important that you work together with your employer to agree on a suite of protections that can be made available to employees who are victims of domestic violence so that they can be supported at work. These can include:

- Development of workplace safety planning strategies to ensure protection of employees which are clearly understood and respected by all parties. Also, employees being able to access flexible work arrangements where appropriate. This may also include supporting staff to get to work.
- Referral of employees to appropriate domestic violence support services.
- Nominated contact person(s) including workplace health and safety officers or representatives if appropriate and training provided to these employees for them to fulfil their role.
- Ask the employee if there is any other support that they may need.

The AWU have drafted a [Family and Domestic Violence Leave Clause for agreements that can be found here](#).

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