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LawTalk Blog



The effects of family and domestic violence on employability

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Family and domestic violence (FDV) causes great human and economic cost to our community. One of the costs of domestic violence which is, perhaps, less readily recognised, is the effect that it can have upon a victim's ability to maintain employment.

Reasons domestic violence affects employment:

- having to leave your home suddenly to avoid a violent relationship
- living in a shelter, or "couch surfing" with relatives and friends because your home is not safe
- suffering an injury and attending hospital for treatment
- having visible bruising, black eyes, or broken teeth
- attending at a police station to report violence
- attending at court hearings to secure an Apprehended Violence Orders or to give evidence against an offender.

These are just some of the consequences of FDV which might impact upon an individuals ability to maintain employment.

Losing a job while experiencing Family Domestic Violence

The loss of a job at any time is distressing, but to lose a job while trying to cope with the consequences of FDV can be very difficult. The loss of a job at such a time might mean that a victim is denied access to the resources needed to keep themselves and their children safe.

Fair Work Commission's takes action to assist victims of Family Domestic Violence

Earlier this year the [Fair Work Commission](#) (FWC) took action which may assist victims of FDV to maintain paid employment.

As part of its four yearly review of modern awards, the FWC has introduced a provision into all modern awards which provides for up to five days of unpaid leave per year to cope with FDV. As a result, all employees who are covered by modern awards, including casual employees, are entitled to take up to five days of unpaid leave per year if they are experiencing FDV and have to take action to deal with it during work hours, such as to attend court or find alternative accommodation.

The clause defines FDV as "*violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful*".

Recently, the Federal Government followed the FWC's lead and passed legislation providing for five days of unpaid FDV leave in the [National Employment Standards](#) (NES). The NES are minimum standards of employment in the [Fair Work Act \(Cth\) 2009](#) which apply to (almost) all employees in Australia, whether their employment is covered by a modern award or not. It is estimated that around 6 million Australians will now have this entitlement.

Our opinion: while this is a positive step, it does not go far enough

It is to be expected that permanent employees who have access to paid annual or personal (sick) leave would elect to use that leave for such purposes so that they will be paid during their absence from work. The new provision will be of the greatest benefit to casual employees who do not have access to paid leave and to those who may have already used up their paid leave entitlement. However, in our view, the next step must be to provide for PAID FDV leave so that victims of FDV do not suffer an added financial burden at times when they may be least able to cope with a loss of income.

If you or anyone you know is suffering from FDV contact Anderson's [family law team](#) for advice. If you need advice about your entitlements and rights as an employee, contact Anderson's [industrial law team](#).

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