



Blackall-Tambo

Regional Council

Domestic and Family Violence Leave Policy

Policy Number: Stat 43	Effective Date: 15.02.2023
Version Number: 2	Review Date: 15.02.2026
Policy Compiled by: Director of Finance Corporate and Community Services	
Policy Approved by: Chief Executive Officer	

1. PURPOSE

Council is committed to providing a safe workplace for all employees. Council aims to support employees who are impacted by domestic and family violence.

Council commits to the following principles when assisting impacted employees:

- Confidentiality of employee details.
- Safety planning strategies to ensure protection for employees.
- Support for employees affected by family and domestic violence by providing access to the Royal Flying Doctor Service as well as Outback Futures which provides free confidential counselling (face to face, telephone and online) and access to a wide range of information and support resources.
- Support for employees to access relevant leave/flexible work arrangements.
- Protection against adverse action, discrimination, harassment or bullying because of any disclosure, experience or perceived experience relating to domestic and family violence.

2. SCOPE

Under the new provisions the new definition of family and domestic violence means violent, threatening, or other abusive behaviour by an employee's close relative, a current or former intimate partner, or a member of their household that both:

- seeks to coerce or control the employee.
- causes them harm or fear.

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A close relative is:

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

3. NEW ENTITLEMENTS

The Australian Government has amended paid family and domestic violence leave by passing the Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022 which came into effect on the 1 February 2023.

The new entitlement of 10 days paid family and domestic violence leave will replace the existing entitlement of 5 days unpaid family and domestic violence leave under the National Employment Standards (NES).

The entitlement is available to full-time, part-time, and casual employees in a 12-month period and is not pro-rated for part-time and casual employees.

The full 10-day leave entitlement will be available upfront from 1 February 2023 and won't accumulate from year to year if it's not used.

4. ENTITLEMENTS IN AGREEMENTS OR WORKPLACE POLICES

Some workplaces may provide employees with paid family and domestic violence leave entitlements in registered agreements, employment contracts or workplace policies.

If the entitlement to paid family and domestic violence leave in any of these instruments is less than the minimum entitlement under the National Employment Standards, the National Employment Standards entitlement applies.

The Council's current Enterprise Bargaining Agreement provides for 10 days paid domestic violence leave.

5. HOW THE LEAVE RENEWS

The leave renews every year on each employee's work anniversary. It doesn't accumulate from year to year if it isn't used.

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Employees who start on or after the date that the paid leave entitlement becomes available at their new workplace can access the full 10 days from their first day. The leave will renew on their work anniversary.

Employees who are already employed when the paid leave entitlement starts in their workplace can access the full 10 days on the 1 February 2023. The leave then renews on the anniversary of when they started working for that employer.

6. TAKING FAMILY AND DOMESTIC VIOLENCE LEAVE

All family and domestic violence leave applications must be approved by the Chief Executive Officer.

Employees (including part-time and casual employees) can take this paid leave if they need to do something to deal with the impact of family and domestic violence and it's not practical to do that outside their hours of work.

This could include, for example, the employee:

- making arrangements for their safety, or the safety of a close relative (including relocation)
- attending court hearings
- accessing police services
- attending counselling
- attending appointments with medical, financial, or legal professionals.

7. PAYMENT FOR LEAVE

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

An employee's full pay rate is their base rate plus any:

- incentive-based payments and bonuses
- loadings
- monetary allowances
- overtime or penalty rates
- any other separately identifiable amounts.

8. INTERACTION WITH OTHER PAID LEAVE

An employee can use paid family and domestic violence leave during a period of paid personal or annual leave. If this happens, the employee is no longer on the other form of paid leave and is taking paid family and domestic violence leave instead and will have their personal or annual leave recredited to them. The employee needs to give their employer the required notice and evidence.

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9. PAYS LIP REQUIREMENTS

From 1 February 2023, employers need to keep a record of leave balances and any leave taken by employees. Payslips must not mention details of any family and domestic violence leave paid, including any leave taken and leave balances.

10. NOTICE AND EVIDENCE REQUIREMENTS

An employee must let their employer know as soon as possible. This could be after the leave has started. An employer can ask their employee for evidence to show that the employee needs to do something to deal with family and domestic violence and it's not practical to do that outside their hours of work.

If the employee doesn't provide the requested evidence, they may not get family and domestic violence leave.

The evidence must convince a reasonable person that the employee took the leave to deal with the impact of family and domestic violence.

11. TYPES OF EVIDENCE

Types of evidence can include:

- documents issued by the police service.
- documents issued by a court.
- family violence support service documents, or
- a statutory declaration.

Employers can ask employees to provide evidence for as little as 1 day or less off work.

12. CONFIDENTIALITY

Employers must take reasonably practicable steps to keep any information about an employee's situation confidential when they receive it as part of an application for leave. This includes information about the employee giving notice that they're taking the leave and any evidence they provide.

Employers need to be aware that any information about an employee's experience of family and domestic violence is sensitive.

If information is mishandled, it could have adverse consequences for their employee. Employers should work with their employee to discuss and agree on how this information will be handled.

An employer can only use this information to satisfy themselves that the employee is entitled to family and domestic violence leave, unless:

- the employee consents.
- the employer is required to deal with the information by law, or
- it's necessary to protect the life, health or safety of the employee or another person.

The employer can't use the information for other purposes, including to take adverse action against the employee.

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13. MISCELLANEOUS

If an employee has exhausted the entitlement to domestic and family violence leave, the employee may, with the Chief Executive Officer's agreement, take additional days of unpaid leave.

In the event an employee requires assistance with making an application for domestic and family violence leave, Council's HR Officer will be available to provide support to the employee making an application to the Chief Executive Officer.

14. RELEVANT LEGISLATION

Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022
National Employment Standards

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