

FAMILY VIOLENCE LEAVE POLICY

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Authority and Application

Clause 52 of the *Victorian Public Service Enterprise Agreement 2020* (the Agreement) applies to Employees of Victorian Public Service Departments and Agencies (Employers) covered by the Agreement who are experiencing family violence.

Overview

Employers are committed to promoting a workplace free from all forms of violence and recognise that Employees may sometimes experience situations of violence or abuse which constitute family violence that may affect their attendance or performance at work.

Clause 52 of the Agreement recognises the important role workplaces can play in supporting affected persons to deal with the adverse consequences of family violence and was introduced as part of the Victorian Government's broader response to the recommendations of the Royal Commission into Family Violence.

Clause 52 of the Agreement articulates the range of supports that are available to Employees who are experiencing family violence which include:

- Up to 20 days per calendar year of paid special leave per year (unpaid for casual employees) for medical appointments, legal proceedings and/or other activities to assist the Employee to deal with the consequences of family violence and/or to remove themselves from dangerous or violent situations (this leave is not cumulative but if the leave is exhausted consideration will be given to providing additional leave); and
- Meaningful workplace supports (such as flexible working arrangements, changes to the Employee's ordinary hours of work, altered working locations or duties and/or other reasonable support measures) to minimise any negative impacts on the employment of affected Employees.

Employees who are experiencing family violence are encouraged to speak to their manager, any Family Violence contact within the workplace, human resources contact, workplace safety/injury management contact or the Employee Assistance Program (EAP).

The supports and paid or unpaid leave provided under clause 52 do not extend to perpetrators (or alleged perpetrators) of family violence.

Relevant provisions of the VPS Agreement

Clause 52 - Family Violence Leave

Clause 10 – Right to Request Flexible Working Arrangements

Supplementary Guidance Information

1. What is family violence?

- 1.1. Family violence is defined by the *Family Violence Protection Act 2008* (Vic) (FVP Act).
- 1.2. A central element of family violence is behaviour aimed at power and control through fear. Family violence takes a number of forms, including physical and sexual violence, threats and intimidation, psychological, emotional and social abuse, coercive or controlling behaviour and economic deprivation.
- 1.3. Family violence includes one or more of these forms of behaviour by an individual against a family member or someone with whom they have, or have had, an intimate relationship. A family member also includes any other person who may be regarded as being like a family

member, having regard to the circumstance of the relationship, such as social and emotional ties, home environment, cultural recognition of the relationship as being like family or provision of care whether paid or unpaid.

1.4. Anyone, regardless of gender identity, can experience family violence.

2. Who can access family violence support?

- 2.1. The Employer is committed to providing any Employees who is experiencing family violence with the necessary support and flexibility to act against family violence while maintaining their employment. Paid work plays a crucial role in providing the financial stability to enable people experiencing family violence to remove themselves from dangerous, abusive or violent situations.
- 2.2. While casual employees are not entitled to paid leave under the clause, employers may use their discretion to grant paid leave to a casual experiencing family violence, under clause 70 of the Agreement.
- 2.3. Clause 52.5(b) of the Agreement makes provision for people assisting someone experiencing family violence.
- 2.4. The supports and paid and unpaid family violence leave available under clause 52 of the Agreement do not extend to perpetrators (or alleged perpetrators) of family violence.

3. Forms of support available to an Employee experiencing family violence

3.1. The forms of support provided by clause 52 of the Agreement, which may be available to an Employee who is experiencing family violence, include:

3.1.1. Leave Options

Employees other than Casual Employees

- (a) Up to 20 days paid family violence leave per calendar year (non-cumulative) is available to an Employee who is experiencing family violence.
- (b) If the paid family violence leave allocation in any particular year of service has been exhausted, the Employer may consider granting additional leave, subject to the approval of the Employer's delegate. Employees experiencing family violence may apply for additional paid family violence leave without first exhausting other accrued leave entitlements. This leave is in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval where it is not reasonable in the circumstances to provide notice to the Employer. If leave is taken without prior approval, the Employee should seek to fulfil evidentiary requirements soon as reasonably practicable after the taking of the leave.
- (c) An Employee may, with the approval of the Employer, access other forms of accrued paid leave in conjunction with paid family violence leave.

Casual Employees

- (d) A casual Employee may utilise leave without pay for absences necessary to attend to matters resulting from family violence.
- (e) The Employer may use their discretion to grant paid leave to a casual Employee experiencing family violence, for example, a long term casual Employee, under clause 70 (Other Leave) of the Agreement on a case by case basis.

3.1.2. Other workplace supports

- (a) access to the EAP, a family violence support service or other similar resources;
- (b) temporary or ongoing changes to span of hours, patterns of hours and/or shift patterns;

- (c) temporary or ongoing job redesign or changes to duties;
- (d) temporary or ongoing relocation to suitable alternative employment within their department or agency. Where it is not safe for the Employee to provide suitable alternative employment with the department or agency, options for temporary or ongoing relocation within the VPS may be explored;
- (e) a change to telephone number or email address;
- (f) changing or replacing work ICT resources (including phones, iPad and/or computers) so they cannot be used to track an Employee who is experiencing family violence;
- (g) development of a Workplace Support Plan; and/or
- (h) any other appropriate measure, including those available under existing provisions for family friendly and flexible work arrangements, or other security measures.

Any changes to an Employee's role will be reviewed at agreed periods in accordance with clause 52.6(b) of the Agreement. When an Employee is no longer experiencing family violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the Employee's substantive position.

4. Forms of support available to an Employee supporting a person who is experiencing family violence

- 4.1. Clause 52 of the Agreement seeks to ensure that public sector workplaces support Employees to maintain economic independence by putting into place reasonable measures to assist Employees to overcome any actual or potential work related impacts, including impacts on their attendance or performance of work. Clause 52 also provides Employees with the necessary time off work to attend court hearings, report incidents to police, seek counselling and/or organise alternative accommodation.
- 4.2. Supporting someone while they are dealing with family violence may require time away from work. The forms of support which may be available to an Employee supporting a person who is experiencing family violence include:
 - 4.2.1. referral to the EAP (whose services include professionals trained specifically in family violence), a family violence support service or other similar resources;
 - 4.2.2. personal/carer's leave (subject to the approval of the Employer) to accompany the person experiencing family violence to court, hospital or medical appointments, or to care for children or provide support during other similar activities (see clause 52.5(b) of the Agreement) ; and/or
 - 4.2.3. any other appropriate measure.
- 4.3. Employees requesting time-off work to support a person who is experiencing family violence should talk to the Employer to seek approval for personal/carers leave and discuss appropriate evidentiary requirements, such as those prescribed by the Personal/Carer's Leave common policy, including a statutory declaration, or other relevant evidence.
- 4.4. Employees who wish to discuss any issues relating to family violence can speak to a manager, any Family Violence contact within the workplace, human resources contact, workplace safety/injury management consultant (or equivalent), the EAP or another appropriate individual within the Department or Agency.
- 4.5. Noting the requirements of clause 52.6(c), if the Employer's existing EAP provider does not have the ability to provide requisite specialist support to the Employee, it would be appropriate to refer the Employee to other services able to provide specialist support as an interim measure. When Employers are selecting future EAP providers, they must ensure their preferred future EAP provider has appropriate specialist skills in the area of family violence.

5. Impacts of family violence on an Employee's performance and/or attendance

- 5.1. A consequence of family violence may be the deterioration in an Employee's attendance and/or performance at work. Employers must, where the issue is known to them, consider the impact violence can have on an Employee's performance and be sensitive to their experience of family violence when seeking to address attendance and/or performance issues.
- 5.2. No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing family violence. 'Adverse action' is action taken by the Employer against an Employee that is detrimental or prejudicial to an Employee in their employment, including disciplining or dismissing the Employee.

6. Applying for family violence leave

- 6.1. Employees will need to discuss leave requests with the Employer. Wherever possible, this should occur prior to the taking of leave.
- 6.2. If for any reason the Employee is uncomfortable speaking to their manager about the reasons for applying for leave, the Employee may seek advice and assistance from any Family Violence contact within the workplace, their local Human Resources or People and Culture Unit (or equivalent) and/or a more senior manager.
- 6.3. In circumstances where it is not possible to first discuss the taking of family violence leave with their manager, the Employee must:
 - 6.3.1. notify the Employer of their intended absence as soon as practicable; and
 - 6.3.2. submit their leave application as soon as reasonably practicable on their return to duty, together with the required documentation supporting the absence (where required by the Employer).
- 6.4. Where evidence is requested by the Employer, leave cannot be approved until the relevant documentation has been provided. However, the Employer may grant the Employee provisional approval pending receipt of the requested relevant documentation.
- 6.5. Paid family violence leave will be made available where there is an immediacy to the family violence the Employee is experiencing and/or the Employee's absence from work is to respond to the impact of experiencing family violence, including to:
 - 6.5.1. engage in activities associated with dealing with the immediate effects such as removing themselves from dangerous or violent situations, reporting incidences to the police or similar;
 - 6.5.2. deal with the immediate consequences of an incidence of family violence, such as attending counselling appointments, seeking legal representation or attending legal proceedings; or
 - 6.5.3. attend to other activities with a direct and proximate relationship with the incidence of family violence, such as the protection of assets, pets, livestock and personal property and important paperwork such as Birth Certificates, Passports, Bank Account information and Insurance Documents.

7. Requesting other support and assistance

- 7.1. Where an Employee wishes to make changes to their hours, patterns of work, regular duties or location to assist them to mitigate the impacts of family violence on their employment, they should first discuss these changes with their manager, any Family Violence contact within the workplace and/or local Human Resource or People and Culture Unit (or equivalent). The Employer will approve any reasonable request.
- 7.2. Requests for flexible working arrangements should be made in accordance with the Flexible Work Arrangements common policy. The Employer will approve any reasonable request

from an Employee for flexible working arrangements where the Employee is experiencing family violence.

- 7.3. Changes to contact details to avoid harassing contact (including phone numbers, email addresses and work location) may be available to Employees who are experiencing family violence. The Employer will accommodate all reasonable requests.

8. Evidence requirements

- 8.1. The Employer may require that the Employee provide relevant documentary evidence to substantiate their entitlement to family violence leave on a given day for any duration. Relevant documentary evidence may include documents issued by the Police, Courts, registered health practitioners, such as a doctor or counsellor, family violence support service, district nurse, maternal and health care nurse or a lawyer. In the absence of other documentary evidence, the Employer will accept a signed statutory declaration as evidence.
- 8.2. The Employer will consider each case on its merits and with appropriate sensitivity. As a general guide, where requested by the Employer, relevant documentary evidence should:
 - 8.2.1. substantiate the Employee's entitlement to take leave for a reason covered by clause 52 of the Agreement;
 - 8.2.2. detail the days, day or part day hours of the absence or expected absence; and
 - 8.2.3. be provided for each individual absence or series of absences.
- 8.3. The Employee may continue to access other forms of leave, including accrued personal/carer's leave entitlements, subject to the relevant notice and evidentiary requirements applicable to those entitlements, to assist the Employee to manage ongoing physical and/or mental health concerns, due to experiencing family violence.
- 8.4. The Employer should maintain regular contact with the affected Employee to ensure appropriate workplace supports are provided to the Employee, discuss notice and evidence requirements (where required by the Employer) and to review and adjust these measures to suit the circumstances.

9. Privacy of personal information

- 9.1. Employers (including managers/supervisors) and Employees must treat all disclosures of family violence as confidential. In some instances, the Employer may have additional obligations as set out in section 10 below.
- 9.2. Representatives of the Employer involved in a matter raised under this policy are required to respect the privacy of personal information provided and the sensitivity of the matters raised. Disclosure of personal information should be limited to a strict 'need to know' basis. The Employer may wish to advise the Employee about how their information will be handled in accordance with relevant legislation and privacy obligations.
- 9.3. Information collected, used and retained under this policy, is to be collected used and stored in accordance with the *Privacy and Data Protection Act 2014 (Vic)*, the *Health Records Act 2001 (Vic)* and other applicable privacy laws.
- 9.4. No information will be kept on an Employee's personnel file without their express written permission, including, for example, changes to work location or changes to a flexible working arrangement as a result of acting against family violence.
- 9.5. If either the Employer or Employee is concerned about the collection, use and/or disclosure of any information provided in relation to this policy, further advice can be obtained from the Employer's privacy officer.

10. Reporting obligations of the Employer

- 10.1. In certain circumstances, there are legal obligations to report acts or threats of family violence to external bodies.
- 10.2. Any incidents, hazards or risks that occur in the workplace must be reported in the Employer's incident reporting system. The *Occupational Health and Safety Act 2004* (Vic) requires the Employer to notify WorkSafe immediately of serious workplace incidents.
- 10.3. Employers subject to the *Child Wellbeing and Safety Act 2005* (Vic) must notify the Commission for Children and Young People (the Commission) of a reportable conduct allegation, not more than three business days after becoming aware of the allegation against an Employee. On becoming aware that a reportable conduct allegation that may involve criminal conduct, the Employer, Commission, regulator or independent investigator must report the matter to Victoria Police.

11. Maintaining a safe and secure workplace for an Employee experiencing family violence

- 11.1. While the workplace may be perceived to be a safe place away from the home for those experiencing family violence, there may be occasions where an Employee is at risk of family violence in the workplace. In such circumstances, any risk to the safety of the Employee or other Employees should be discussed with the Employer and appropriate measures put in place to mitigate safety concerns.
- 11.2. Appropriate measures may include:
 - 11.2.1. programming mobile phones with emergency contact numbers;
 - 11.2.2. screening incoming calls to the Employee;
 - 11.2.3. changing work phone numbers and email addresses;
 - 11.2.4. changing or replacing work ICT resources (including phones, iPad and/or computers) so they cannot be used to track an Employee who is experiencing family violence;
 - 11.2.5. changing work location or duties;
 - 11.2.6. ensuring the Employee is in a security restricted zone/area where possible; or
 - 11.2.7. any other reasonable adjustment to mitigate the risk to the Employee or other Employees on a temporary or permanent basis.
- 11.3. When returning to work after leave due to a family violence related issue, Employees are encouraged to talk to the Employer regarding any ongoing safety concerns the Employee may have.
- 11.4. The Employer and Employee should discuss any need to update emergency contact details on their personnel records. It may be appropriate to nominate someone who is not involved in the family violence.
- 11.5. An Employee who is experiencing family violence, may have sought or may have in place a Family Violence Intervention Order (FVIO) against a family member. The Employee is encouraged to speak to their Employer about the FVIO, particularly in circumstance when the FVIO applies to another Employee in the workplace. Where an Employee makes such a disclosure, the Employer should ensure that they make all reasonable and necessary adjustments to comply with the FVIO, as it applies to the Employer and any other Employee in the workplace.

12. Dealing with Employees who commit acts or threats of family violence

- 12.1. The supports and paid and unpaid family violence leave available under clause 52 of the Agreement do not extend to perpetrators (or alleged perpetrators) of family violence. Where a perpetrator of family violence seeks to access paid family violence leave, the Employer will assess, on a case by case basis, whether other forms of leave may be appropriately granted to that Employee. The Employer will consider providing assistance only where this will assist a perpetrator in achieving behavioural change, consistent with the broader policy

goal that the public sector leads the way in encouraging behavioural change to reinforce the norms of non-violence, respectful relationships and equity.

- 12.2. Where the Employer uses its discretion to provide paid leave to perpetrators of family violence, the Employer may:
 - 12.2.1. limit such paid leave for the purpose of counselling or other behavioural change activities that cannot be attended outside the Employee's ordinary working hours;
 - 12.2.2. carefully monitor any leave accessed is not more generous or in excess of any paid leave entitlements that would be available to an Employee experiencing or who has experienced family violence; and
 - 12.2.3. apply strict notice and evidentiary requirements which fully substantiate the Employee's attendance at the specified activities on the particular day and time of the absence.
- 12.3. Any Employee concerned that they are using or may use violence against a family member can seek support through the department or agency's EAP or through any of the support services listed at Attachment A.
- 12.4. Any Employee who threatens, harasses or abuses a family or household member at or in connection with the workplace, including through the use of workplace resources, may be subject to misconduct proceedings or other action in accordance with relevant enterprise agreement or Employer policies.
- 12.5. Employees who use their position to access information or resources to knowingly enable the commission of an act of family violence may be subject to disciplinary action.

13. Other leave: Management of the long term impact of family violence

- 13.1. Family violence leave entitlements are intended to support Employees in discrete family violence situations and should not substitute for other existing forms of leave to manage the long term impact of family violence.
- 13.2. The Employer recognises that there may be some circumstances that may act as a trigger for Employees experiencing or who have experienced family violence, who are no longer experiencing family violence. These could:
 - 13.2.1. re-enliven emotions or trauma around past incidences of family violence;
 - 13.2.2. require the Employee to seek counselling;
 - 13.2.3. arise where an Employee is only now in a position to report a past instance of family violence to the police; or
 - 13.2.4. arise where past instance is continuing to proceed through the justice system.
- 13.3. Access to family violence entitlements will be made available in instances of family violence where a recent event triggers a request for leave.
- 13.4. Paid and unpaid family violence leave is not intended to be used to manage the long term impact of family violence, such as ongoing health effects. Employees may access other leave entitlements under the Agreement, such as personal/carer's leave.

14. Useful Contacts

- 14.1. Useful contacts and resources are provided in Attachment A to this policy.

Making decisions under this policy

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an Employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only

taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 52 of the Agreement may apply for a Review of Actions under the Employer's Review of Actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

VPS Enterprise Agreement Common Policies

- Other Leave
- Personal/Carers Leave
- Flexible Working Arrangements
- Working From Home
- Review of Action

All policies in the VPS Enterprise Agreement common policies collection can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>.

Authorised by Industrial Relations Victoria:

Key Details	
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ATTACHMENT A – Useful contacts and resources

The following list is not exhaustive and other agencies may exist that provide similar services:

Who	Contact details
<p>Police</p> <p>Emergency response (24 hours).</p>	000
<p>National 1800RESPECT Line</p> <p>Provides national free advice and counselling for both people experiencing family violence and professionals responding to family violence (24 hours).</p>	1800 737 732
<p>Safe Steps</p> <p>A family violence response service for women and children that provides information on family violence support services, legal rights and accommodation options (24 hours).</p> <p>Safe Steps also have a range of emergency accommodation with pet friendly options.</p>	1800 015 188 www.safesteps.org.au
<p>The Lookout</p> <p>An online resource where you can find information, resources and services aimed at preventing and responding to family violence.</p>	www.lookout.org.au
<p>Worksafe</p> <p>WorkSafe must be notified immediately of all serious workplace incidents, followed up with written notification within 48 hours. The incident site must be preserved until a WorkSafe inspector arrives or directs otherwise.</p>	132 360
Employee Assistance Program	
<p>Alcoholics Anonymous Victoria (AA Victoria)</p> <p>A fellowship of men and woman who share their experience, strength and hope with each other that they solve their common problem and help others to recover from alcoholism (24 hours).</p>	(03) 9429 1833 www.aavictoria.org.au
<p>Djirra (previously Aboriginal Family Violence Prevention and Legal Service)</p> <p>Advice and assistance for Aboriginal people experiencing domestic and family violence.</p>	1800 105 303 www.djirra.org.au
Beyond Blue	1300 224 636

Who	Contact details
<p>Provider of information and support to help everyone in Australia achieve their best possible mental health, whatever their age and wherever they live (24 hours).</p>	<p>www.beyondblue.org.au</p>
<p>Court Network A voluntary non-legal court support service operating throughout Victoria and Queensland. They can tell you about how the court works and can also make referrals to other community agencies for support after the hearing.</p>	<p>1800 681 614 www.courtnetwork.com.au</p>
<p>Elizabeth Morgan House Aboriginal Women’s Family Violence Services Crisis accommodation and support for Aboriginal women and spouses of Aboriginal men.</p>	<p>1800 796 112</p>
<p>InTouch Multicultural Centre Against Family Violence A state wide service, which provides services, programs and responses to issues of family violence in CALD (Culturally and Linguistically Diverse) Communities.</p>	<p>1800 755 988 www.intouch.org.au</p>
<p>Kids Help Line Support and information for children (24 hours).</p>	<p>1800 551 800</p>
<p>Lifeline Provide crisis support and suicide prevention services (24 hours).</p>	<p>13 11 14</p>
<p>Men’s referral service An anonymous and confidential telephone counselling, information and referral service to help men involved in family violence matters.</p>	<p>1300 766 491 www.ntv.org.au</p>
<p>Men’s Shed Assist the health and wellbeing of men through promoting the social, civic and economic participation of men – helping to replace social isolation, dislocation with inclusion and connection.</p>	<p>0408 465 228</p>
<p>No To Violence</p>	<p>www.ntv.org.au</p>
<p>Our Watch</p>	<p>www.ourwatch.org.au</p>

Who	Contact details
<p>Our Watch has been established to drive nation-wide change in culture, behaviours and attitudes that lead to violence against women and children.</p>	
<p>Pets in Peril Domestic Violence Service</p> <p>This service is provided by Animal Aid and Eastern Domestic Violence Outreach Service (EDVOS) and can assist in emergency situations. You must obtain a referral from a caseworker through EDVOS, an emergency housing program or a community health service.</p>	<p>(03) 9259 4200</p>
<p>Sexual Assault Crisis and Counselling Line</p> <p>The Sexual Assault Crisis Line Victoria (SACL) is a state-wide, after hours, confidential, telephone crisis counselling service for victim/survivors of both past and recent sexual assault.</p>	<p>1800 806 292</p>
<p>Victoria Legal Aid</p> <p>Victoria Legal Aid can assist with free information about family violence intervention orders.</p>	<p>1300 792 387 www.legalaid.vic.gov.au</p>
<p>Women’s Information and Referral Exchange</p> <p>Provides Victorian women with free and confidential support, information and referrals on any issues. Services include the Telephone Support Service, Walk in Centre, online Livechat support and email support service.</p>	<p>1300 134 130 www.wire.org.au</p>
<p>Women’s Legal Service</p> <p>Phone advice and appointments available to women in Victoria who are in need of legal advice, information or referral, irrespective of income or assets.</p>	<p>1800 133 302 (03) 8622 0600 www.womenslegal.org.au</p>