

Commissioner's Information Sheet

Information Sheet – support for NTPS employees affected by Domestic and Family Violence (D&FV)

1. Introduction and purpose
2. What is Domestic and Family Violence – legal definition
3. Mandatory Reporting requirements
4. Confidentiality and disclosure
5. Leave and other workplace arrangements
6. Checklist for employees
7. Checklist for managers/HR staff
8. References
9. Relevant legislation

1. Introduction

The Commissioner for Public Employment recognises that Domestic and Family Violence including sexual violence has a devastating impact on a significant proportion of the Northern Territory population.

A safe and supportive workplace can make a positive difference to employees who are victims of Domestic and Family Violence.

The provisions available to employees are outlined under section 'Leave options and other workplace arrangements'.

Purpose

This information sheet outlines provisions and workplace arrangements available to support employees who are victims of Domestic and Family Violence. It also helps to inform employees and managers about the legislative requirements and other support services available.

2. What is Domestic and Family Violence – legal definition

The [*Domestic and Family Violence Act*](#) defines Domestic and Family Violence as any of the following conduct committed by a person against someone with whom the person is in a domestic relationship:

- (a) conduct causing harm including sexual assault
- (b) damaging property including the injury or death of an animal

- (c) *intimidation*
- (d) *stalking*
- (e) *economic abuse*
- (f) *attempting or threatening to commit conduct mentioned in paragraphs (a) to (e).*

Domestic and Family Violence is any type of abusive behaviour used to gain and maintain control over another person. Domestic and Family Violence involves ongoing controlling and abusive behaviour.

A domestic relationship may include marriage, de facto, boyfriends/girlfriends, same sex, members of immediate and/or extended family according to Aboriginal tradition or contemporary social practice, members of a household and/or people involved in a dependent carers relationship.

Types of Domestic and Family Violence include verbal and emotional abuse, threats and intimidation, social isolation, financial control or isolation, and physical and sexual violence in a domestic situation.

3. Mandatory Reporting requirements

Every adult in the NT (over the age of 18) must report to the police if they believe either:

- a person has caused, is causing, or is likely to cause, serious physical harm to someone they are in a domestic relationship with and/or
- the life or safety of a person is under serious or imminent threat, because Domestic and Family Violence has been, is being, or is about to be committed
- physical harm can be temporary or permanent and it can include unconsciousness, pain, disfigurement, infection with a disease, any physical contact that a person might object to (whether or not they are aware of it at the time). 'Serious physical harm' is any physical harm that endangers or is likely to endanger a person's life or where the effects are longstanding.

[Link to 'Report Domestic and Family Violence'](#)

4. Confidentiality and disclosure

- Employees who are victims of Domestic and Family Violence can choose whether, when and to whom they disclose information about being affected by Domestic and Family Violence.
- However, once a disclosure is made by an employee Mandatory Reporting obligations must be followed (see Mandatory Reporting requirements).
- Has the employee followed Mandatory Reporting? If they have not made a report to police, managers can discuss with the employee how to make a report using the [Link to 'Report Domestic and Family Violence'](#)
- Managers should speak with an employee privately. It is important that employees feel confident and safe when they approach their manager or HR officer when they disclose sensitive information.

Managers and HR officers can maintain confidentiality by:

- 1) viewing evidence once (if the employee chooses to share this information)
- 2) not making duplicates of the evidence

- 3) returning evidence to the employee
- 4) reporting that evidence has been viewed
- 5) information will not be kept on the employee's personnel file, unless the employee gives permission.

Examples of evidence may be, but are not limited to: a police report, medical report/certificate, counsellor's advice, lawyer's correspondence, statutory declaration or other appropriate information.

The Commissioner for Public Employment acknowledges that employees affected by Domestic and Family Violence may not be in a position to provide supporting documentation. An employee's access to leave and other options will be given without supporting documentation. However, the manager/HR officer must be satisfied that Miscellaneous Leave is required for this purpose.

There may be times, when there is a safety risk to either the affected employee or other employees. For example, if there is a risk that an aggressive spouse attempts to enter the workplace. To maintain safety in the workplace, disclosure of the situation will only occur with the consent of the employee and be kept to a minimum and on a 'need-to-know' basis.

5. Leave options and other workplace arrangements

Employees who are victims of Domestic and Family Violence can access various flexible work options and other support under the following provisions:

- (a) Miscellaneous Leave for Domestic and Family Violence purposes (By-law 18)
- (b) working part-time
- (c) flexible working arrangements
- (d) Leave Without Pay (By-law 16)
- (e) Recreation Leave at half pay
- (f) Long Service Leave at half pay (see By-law 8.10(b))
- (g) Personal Leave
- (h) applying for leave
- (i) accessing employer funded support from the Employee Assistance Program (EAP) for Domestic and Family Violence purposes
- (j) also check your Enterprise Agreement Domestic and Family Violence provisions.

Arrangements may be for a set period of time and the employee should be followed up to review their ongoing circumstances.

(a) Miscellaneous Leave (By-law 18)

Domestic and Family Violence leave is accessed in accordance with By-law 18 – Miscellaneous Leave and is in addition to other leave entitlements. Domestic and Family Violence leave will count as service.

Miscellaneous Leave for Domestic and Family Violence may be used to request time off for the following reasons, but there are other provisions available:

- finding safe accommodation
- attending court hearings

- accessing legal advice
- organising alternative care or education arrangements for their children
- other related purposes approved by the CEO.

(b) Working part-time

The employee can apply to work part-time for a period of time. Subject to the relevant Enterprise Agreement, the CEO and the employee will agree in writing on a regular pattern of part-time work, ie agreed hours, specifying hours worked each day, days of the week, and starting and finishing times each day.

(c) Flexible working arrangements

Flexible working arrangements are designed to accommodate an employee's personal commitments or needs. Flexible work arrangements are negotiated between the employee and the manager and then approval is given. These may include varying work times, contact numbers or locations as part of a safety plan.

(d) Leave Without Pay (By-law 16)

If the employee requires an extended period of leave, away from the workplace for example, to stay with family interstate, they can apply for Leave Without Pay. Leave Without Pay will not break continuity of service.

(e) Recreation Leave and (f) Long Service Leave at half pay

If required an employee can apply for recreation or Long Service Leave at half pay to extend time away, in accordance with the relevant Enterprise Agreement.

(g) Personal Leave

Employees should utilise Personal Leave for an illness or injury caused by Domestic and Family Violence and seek treatment from a medical practitioner, including counselling services to ensure they receive necessary care and support.

Where an employee has exhausted all Personal Leave the CEO may grant additional Personal Leave at half pay where the absence is at least one (1) day, subject to relevant Enterprise Agreement and all relevant circumstances.

(h) Applying for leave

Applications for Miscellaneous Leave will be dealt with confidentially and sensitively, according to the Mandatory Reporting requirements and managers will ask the employee if a report has been made.

To ensure employees are comfortable disclosing any evidence, the confidentiality requirements specified under 'Confidentiality and disclosure' are provided to ensure that only one manager/HR officer sights any evidence and that employees will not be required to re-submit any evidence.

(i) Employee Assistance Program

Victims of Domestic and Family Violence are encouraged to check the relevant Enterprise Agreement or talk to their HR officer about accessing a range of providers through the employer funded support available from the EAP.

(j) Enterprise Agreement

Check your [Enterprise Agreement](#) Domestic and Family Violence provisions.

6. Checklist for employees:

- Consider which manager/HR officer or delegate that you feel most comfortable talking to about your circumstances
- You should let the manager or HR know if a police report has already been made or if not, when it will be made
- See how to report Domestic and Family Violence [here](#)
- Discuss making an application for leave or flexible work options with your manager/supervisor or an appropriate HR Manager if you require support
- Generally a leave application should be submitted for approval before leave commences. However, back dated applications may be approved for unplanned leave
- Evidence may be requested when considering your application and they could be: documents from the police, a court, a counsellor, from an EAP provider or a statutory declaration
- Managers or a HR officer will sight the evidence but will not retain or keep a copy
- Ensure the application is made for a specified period of time
- Consider what leave or immediate workplace arrangements may help, such as varying start and finish work hours, developing a safety plan for the workplace, and time off to attend related appointments
- Follow up with the manager/HR officer to review any leave or workplace arrangements as agreed. If you are not sure that your circumstances fit within the context of Domestic and Family Violence and have not yet spoken to your manager please login to MyLearning to access this [short module](#) by Territory Families of Mandatory Reporting of Domestic and Family Violence.

7. Checklist for managers and/or human resources employees:

The role of managers

Your role is to enquire about the employee's needs and direct them to the appropriate services or support.

If the employee is in immediate danger, the manager/HR must ask if the employee has followed Mandatory Reporting and if not, refer them to the police contact.

Once manager/HR are aware an employee is affected by Domestic and Family Violence, they must advise them of the workplace provisions as well as take this into consideration if there are concerns about the employee's performance.

The role of a HR officer or agency contact officer

Some agencies can have nominated 'contact officers' to be a first point of contact for employees who want to seek support. Check with your HR for details and if affected employees don't feel comfortable talking to their manager they should be advised they can talk to HR instead.

If an employee seeks immediate support in the workplace, these steps are recommended when a disclosure is made:

<i>Listen</i>	Listen to the person closely with empathy and without judgement. Be patient, calm and compassionate.
<i>Acknowledge</i>	Show the employee that you understand and believe them. Assure them that they are not to blame. Let the employee tell their story at their own pace if they choose to share it with you.
<i>Enquire about their needs and concerns</i>	Ask about the needs and concerns of the employee and discuss the range of workplace provisions. Give them the opportunity to say what they want. Ask: 'how can we help you?'

Your role is not to counsel the employee, instead offer information and refer them to the appropriate support services.

For example, provide information about the **1800RESPECT** website, provide the Domestic and Family Violence Service Directory or the EAP contact.

- Once an employee has disclosed Domestic or Family Violence, managers or HR officers are required to ensure that the necessary Mandatory Reporting requirements has been followed.
- Managers or HR officers should inform the employee that once they make a disclosure, Mandatory Reporting requirements must be followed [see link](#).
- Has the employee followed Mandatory Reporting? If they have not made a report to the police, they can discuss with the employee how to make one. [Link to 'Report Domestic and Family Violence'](#)

- After managers or HR officers have asked the employee if they have made a report to the police, they can discuss with the employee the leave and workplace options to assist their safety.
- Ensure confidentiality and respect is maintained by:
 - sighting evidence once
 - not making a record or copy
 - handing it back
 - reporting only in myHR or other reporting system, that evidence has been sighted for Miscellaneous Leave.
- Reasonable adjustments should be considered to ensure the individual's safety in the workplace, ie different work locations, removal of their phone listing or changes to their NTG email address.
- In discussion with the employee, consider if their information needs to be provided within the work unit while maintaining confidentiality. Follow up with the employee before the expiry of the first application for leave and/or a workplace arrangement to identify if any changes need to be made.

For further support, managers/HR should also provide:

- 1) information about the Domestic and Family Violence [Service Directory](#) (listed in references);
- 2) information about the Employee Assistance Program and how to access;
- 3) remind employees of access to EAP services by verifying EAP provisions in the relevant [Enterprise Agreement](#).

EAP services are also available to managers/HR staff who may have been affected by a disclosure.

8. References

Domestic and Family Violence referral services

A [Service Directory](#) for support and referral services in the Northern Territory

Mandatory Reporting

[How to Report](#)

9. Relevant legislation

[Public Sector Management By-laws section 18](#)

[Public Sector Management By-laws section 16](#)

[Public Sector Management By-laws section 8](#)

[Miscellaneous Leave Commissioner's Guideline](#)