



Government
of South Australia

Office for the Public Sector

GUIDELINE OF THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

DOMESTIC AND FAMILY VIOLENCE

Guideline of the Commissioner for Public Sector Employment

Domestic and Family Violence

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Who is covered by this Guideline?

This Guideline is intended as a whole of government policy for public sector agencies as defined by the *Public Sector Act 2009* and may be adopted and applied by individual agencies.

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1. OVERVIEW

The South Australian Government and Public Sector is committed to supporting employees who are suffering from or escaping domestic/ family violence, by helping them to maintain their employment while supporting them to take action to break the cycle of domestic/family violence.

2. SCOPE

The Commissioner for Public Sector Employment is empowered to issue Guidelines relating to public sector employment matters pursuant to section 14(d) of the *Public Sector Act 2009*(PS Act).

This Guideline is intended as a whole of government policy for public sector agencies as defined by the PS Act and may be adopted and applied by individual agencies. If agencies choose to produce agency-specific policies relating to the support of victims of domestic/family violence, this Guideline is the minimum standard that any agency-specific policy must be equivalent to, in the context of the relative size and profile of a particular agency.

3. INTRODUCTION

Domestic/family violence is a significant issue that impacts all workplaces. Two out of three Australian women who report violence are in paid employment, as are most of the men who are predominantly responsible for perpetrating this violence. In responding to domestic/family violence as a workplace issue, the South Australian public sector, as the largest employer in the State, will continue to lead by example.

On 24 November 2015, the South Australian Government announced a whole-of-Government policy facilitating the provision of up to 15 days special leave with pay in addition to existing leave entitlements and any applicable flexible and safe working arrangements for public sector employees who are the victims of domestic/family violence. *Commissioner's Determination 3.1 – Employment Conditions – Hours of Work, Overtime and Leave – Section F* outlines the parameters of taking and approving leave for employees that are experiencing domestic/family violence.

4. DEFINITIONS

Domestic/Family Violence

Domestic/family violence is a pattern of abusive behaviours by one person against another, within an intimate relationship such as marriage, domestic partnerships, cohabitation, dating or within a family including across generations. Domestic/family violence takes many forms including physical and sexual violence, verbal abuse, threats and intimidation, emotional and social abuse, economic deprivation and property damage. The abusive pattern of behaviour is aimed at power and control through fear.

Aboriginal Family Violence

The term Aboriginal Family Violence is accepted amongst Aboriginal and Torres Strait Islander people as a more appropriate term to describe violence perpetrated against or amongst Aboriginal people, families and communities. The term Aboriginal Family Violence includes violence perpetrated within intimate partner relationships, however, it also encompasses other forms of violence perpetrated against individuals, families and communities. Whilst the term domestic/family violence is used throughout this policy, it is important to recognise that for Aboriginal people, the term family violence may be more appropriate.

What other forms of violence/abuse are not covered by this policy?

An individual is not considered to be suffering from or escaping domestic/family violence if they have been a victim of violence by someone who is not intimately known to them. For example, being a victim of crime by an unknown person, whilst distressing, is not considered domestic/family violence.

5. CONFIDENTIALITY

An employee who discloses they are suffering from domestic/family violence to a manager/supervisor or a human resources consultant must be assured their information will be kept strictly confidential and apart from the personal safety plan, and intervention order, if relevant, information will not be recorded on their personal file, but rather on a confidential working file created for the purpose of storing any information related to the notification.

There may be times, however, when there is a requirement to disclose the information as part of official business or if there is an inherent safety risk to either the affected employee or other employees (for example, if there is a risk the perpetrator might come into the workplace). In these instances, disclosure of the information will be consistent with the Information Privacy Principles and constrained to relevant information only. There may be adverse consequences in the case of any individual who fails to properly maintain confidentiality of information.

6. EMPLOYEE ENTITLEMENTS

There are times when an employee who is suffering from or escaping domestic/family violence may need time away from work for a range of reasons, for example to address health, legal, child care, housing or other personal matters. The following sections outline paid and unpaid leave options and flexible working arrangements that may be available to them.

6.1 LEAVE

Public Sector employees suffering from or escaping domestic/family violence are able to access up to 15 days' Special Leave With Pay in a 12 month period in addition to existing leave entitlements and any applicable flexible and safe working arrangements.

This entitlement applies to part-time employees on a pro-rata basis. This means that the amount of days available would be proportionate to the full time equivalent (FTE) of that employee (for example a full time employee is entitled to 15 days, an employee who is 0.5 would be eligible for 7.5 days).

Leave for domestic/family violence purposes may be taken as consecutive or single days, part days or hours.

A casual employee who is not able to work due to reasons related to domestic/family violence will not have their absence considered as a break in service, but is not entitled to paid leave. This is consistent with the arrangements that apply to breaks in service if a casual employee is absent due to parenting responsibilities.

In order to assist in maintaining confidentiality, it is appropriate for the employee (after speaking in confidence with their manager, supervisor or a Human Resources Consultant regarding their reason for seeking special leave) to record the reason for their special leave application simply as "urgent pressing necessity".

Employees may be eligible for other types of leave including:

- Recreation Leave;
- Long Service Leave;
- Retention Leave;
- Leave Without Pay;
- Purchased Leave; or
- Further Special Leave With Pay.

6.2 FLEXIBLE WORK OPTIONS

Employees who are suffering from or escaping domestic/family violence may require time off during normal working hours to deal with health, legal or financial matters, attend court, or care for children. Flexible work options are designed to facilitate this.

The flexible working arrangements should be designed by an employee and their manager/supervisor together, to best ensure each feels confident with the arrangement and to assist in balancing organisational requirements with the individual ones of the employee. A chief executive/agency head or delegate must ultimately approve the arrangements. Types of flexible work include:

- Flexi-Time;
- Compressed Weeks;
- Part Time/Job Share; and
- Working from Home.

Other eligible employees who are providing care or support for a family or household member suffering from or escaping domestic/family violence, have the right to request flexible working arrangements but do not have access to the 15 days Special Leave with Pay.

6.3 APPLICATIONS FOR LEAVE – EMPLOYEE OBLIGATIONS

Employees will need to talk to their manager/supervisor to negotiate flexible working arrangements and/or access to up to 15 days special leave with pay. If employees are uncomfortable discussing their situation with their manager/supervisor, they may prefer to contact a consultant in the human resources section of their agency, or another contact officer as determined by the agency.

An employee will give their chief executive/agency head or delegate notice of the taking of the leave and, if required by the decision maker, evidence that would satisfy a reasonable person that the leave was for purposes associated with the experience of domestic/family violence such as but not limited to attending medical appointments, legal proceedings, legal assistance, court appearances, counselling, relocation, and the making of safety arrangements.

Evidence in support of leave for purposes associated with domestic/family violence may include (but is not limited to):

- a document issued by the South Australia Police;
- a written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in domestic/family violence situations;
- a document issued by a Court, or a counsellor trained in providing support to people experiencing the effects of domestic/ family violence; or
- written confirmation from an agency's Employee Assistance Program provider or from a domestic/ family violence support service that confirms the employee is experiencing domestic/family violence issues.
- Managers/supervisors are to keep all information concerning the leave application strictly confidential. This includes, after sighting any supporting documentation, returning that documentation to the employee and keeping a copy on a confidential file if necessary.

7. SUPPORT SERVICES

Responsibilities of Managers/Supervisors

The role of managers/supervisors is to:

- provide respectful, sensitive and non-judgmental support to employees;
- ensure confidentiality of information is maintained and information is dealt with pursuant to the Information Privacy Principles only;
- acknowledge that an employee has a right to include a third party in discussions such as but not limited to a colleague, Human resources consultant, professional counsellor or other support person;

- recognise that an employee may need some time to decide what to do and may try many different options;
- consider and discuss measures to provide a safe workplace in so far as is reasonably practicable; and
- be aware of what support is potentially available to employees experiencing domestic/family violence and explore these options with employees.

Employees should not expect their managers/supervisors or Human Resource professionals to be counsellors. Managers, supervisors and human resource professionals are cautioned against attempting to counsel employees.

Employees should source expert professional counselling from the professional services provided by the organisation, such as an agency Employee Assistance Program, via generally available sources such as 1800RESPECT or through referrals from other trusted sources such as a medical practitioner.

Chief Executives, agency heads and delegates should seek to ensure that managers/supervisors are appropriately trained and educated to assist employees suffering from or escaping domestic/family violence. They should also ensure managers and supervisors have access to information on professional counselling services for employees.

Managers or supervisors may also wish to seek the assistance of professional counselling services if the experience of assisting employees suffering from or escaping domestic/family violence is distressing.

Workplace Domestic/Family Violence Personal Safety Plan

If it has been identified that the employee's safety in the workplace or that of their co-workers is at risk a workplace domestic violence personal safety plan should be developed. This is done in partnership between the employee and their manager/supervisor.

Please refer to Appendix 1 for advice on the Development of a Workplace Domestic/Family Violence Personal safety plan.

White Ribbon Accredited Organisations

White Ribbon runs a formal workplace accreditation program, which is internationally recognised.

White Ribbon accredited organisations are required to have a suite of services, policies and procedures available for employees experiencing or escaping from domestic/family violence, and managers and supervisors who work with those employees. These include:

- domestic violence policies that outline the rights and obligations of employees, managers, supervisors, and the wider agency. These policies should be consistent with the information contained in this Guideline;
- access to professional counselling services, such as an agency's Employee Assistance Program, and 1800 RESPECT. These services should be available 24 hours, seven days a week;
- procedures for dealing with perpetrators of domestic/family violence who are public sector employees in the agency, whether they are committing domestic/family violence towards another employee or another person;
- procedures for dealing with non-employee perpetrators who are seeking to commit domestic/family violence against an employee whilst that employee is at work;
- access to a staff e-learning induction package that focuses on understanding the causes of violence against women, the role of active bystanders in violence prevention and how this translates to preventing and responding to violence against women in the workplace
- training for managers on safety planning and risk assessment
- risk management plans, including personal safety plan directions and templates; and
- a range of leave and flexible work arrangements, some of which are outlined in this Guideline.

Employees experiencing domestic/family violence should be able to easily find out if the agency they are working in is White Ribbon Accredited through the organisation's intranet or website.

- Support Services Include:
- Agency Employee Assistant Program (EAP)
- 1800RESPECT
- National Sexual Assault, Domestic Family Violence Counselling Service

8. RELEVANT SOURCES

Public Sector Act 2009

Public Sector Regulations 2010

Code of Ethics for the South Australian Public Sector

Commissioner's Determination 3.1 Hours of Work, Overtime and Leave – Section F

SA Public Sector Wages Parity Enterprise Agreement: Salaried 2014

SA Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2015

Achieving Women's Equality – Office for Women

Fact sheet: Domestic and family violence - a workplace issue, a discrimination issue (Australian Human Rights Commission)

Achieving Women's Equality - South Australia's Women's Policy – Office for Women

DCSI Domestic/Family Violence Policy Taking a Stand Responding to Domestic Violence policy

APPENDIX 1

Advice for the Development of a Workplace Domestic/Family Violence Personal Safety Plan

A workplace domestic violence personal safety plan is a document developed in partnership between an employee and a manager/supervisor, when it has been identified that the employee's safety in the workplace or that of their co-workers is at risk.

Remember that it is the prerogative of an employee to reveal as much of their personal circumstances as they feel comfortable with. Employees are under no obligation to reveal information that they do not desire to reveal, so long as the safety of other employees is not put at risk as a result of such non-disclosure.

When developing a personal safety plan, risks associated with the current working arrangements should be discussed and changes to improve safety identified and implemented. The following considerations will help to form an effective personal safety plan.

Employees should inform their manager/supervisor if the perpetrator of domestic/family violence is also an employee in the agency in which they are employed or working, or an employee in or working in another public sector agency. They should also consider if the perpetrator is a person who is not an employee in the agency or the South Australian public sector, whether it is someone they may come into contact, regularly or irregularly, with as part of the performance of their duties or whilst working. Employees should also:

- inform their manager/supervisor if the perpetrator has threatened them at the workplace, whether in person, over the phone, via social media (whether directly messaged or publicly posted on sites such as Facebook, Twitter, LinkedIn, or any other platform) email or fax, or threatened to attend the workplace, or if they are concerned this may occur;
- inform their manager/supervisor if they have experienced stalking by the perpetrator;
- consider obtaining an Intervention (Restraining) Order via the South Australia Police and/or Magistrates Court and seek to have such order include the workplace as a location the perpetrator is prevented from attending or approaching. Note:
 - Intervention Orders are legally binding orders made by a Magistrate to protect the safety of the victim. They include conditions that prevent the perpetrator contacting the victim or attending or approaching places the victim is likely to be;
 - applications for an Intervention Order can be made through the South Australia Police or directly to the Magistrates Court;
 - if an intervention order has been filed that includes the workplace it is recommended that a copy be provided to management and security; and
 - maintain records of any threatening or intimidating e-mails, letters, text messages, voicemail messages or the like from the perpetrator and provide copies to the police or courts.
- inform their manager or supervisor if they believe another employee may be specifically under threat from the perpetrator;
- inform their manager or supervisor if they believe other employees may be generally under threat from the perpetrator;
- if possible, have their phone calls screened via voicemail;
- if possible, have their phone number and email changed;
- remove their phone number from any internal directories (such as SA Direct) and arrange for the number to be a private number;
- in respect of social media, employees should consider:
 - if they are able to be located via social media, such as colleagues using twitter or Facebook to promote professional or social events?;

- do they have colleagues as social media contacts, such as friends on Facebook, who may be identified by the perpetrator thus placing them under threat?;
 - is their workplace identified on any of their accounts, such as LinkedIn?;
- do they need to discuss with a manager/supervisor whether the place or places from which they perform their duties be relocated for better security?;
- do they need to discuss with a manager/supervisor whether it is possible for working hours to be temporarily adjusted?;
- can parking/travelling to work arrangement be altered to increase safety, including ensuring that car parks are located in well-lit spaces, and do they need to discuss with a manager/supervisor whether security is available to escort employees to their transport when required?;
- is it necessary for them to inform personnel in the security service of the location/s at which they work?;
- if their agency does not provide a security service at the location/s at which they work, should they discuss with a manager/supervisor whether it is possible to procure temporary security?;
- if they are temporarily residing in a confidential location, ensure that appropriate employees in the agency they are employed or working have their current emergency contact information on record; and
- identify an emergency contact person/s they can be contacted through in the case of an emergency.