

Guideline of the Commissioner for Public Sector Employment

Domestic and Family Violence

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**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

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Domestic and Family Violence

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Who is covered by this Guideline?

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

1. Overview

The South Australian Public Sector is committed to supporting employees who are experiencing or escaping domestic/family violence, by helping them to maintain their employment and stay safe in the workplace. while supporting their choices to manage or 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 persons subjected to domestic/family violence, this Guideline is the minimum standard required of any agency-specific policy, adjusted to consider the relative size and profile of a particular agency.

3. Introduction

Domestic/family violence is a significant issue that impacts the whole community. Evidence shows that one in six women, and one in 16 men, have experienced physical or sexual violence by a current or previous partner since the age of 15. The South Australian public sector, as the state's largest employer, recognises the devastating impact domestic/family violence can have on the lives of victims, and will continue to lead by example in promoting a culture of zero tolerance towards violence.

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 subjected to 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 a current or former 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, coercive and controlling behaviour, 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. While 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 experiencing or escaping domestic/family violence if they have been subjected to violence by someone who is not intimately known to them. For example, being a victim of crime by an unknown person, while distressing, is not considered domestic/family violence.

5. Confidentiality

An employee who discloses they are experiencing domestic/family violence to a manager or supervisor or human resources contact must be assured their information will be kept strictly confidential and will not be recorded on their employee file. Rather, a confidential working file should be 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, for example 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), or when report needs to be made to SAPOL. In these instances, disclosure of the information will be consistent with the Information Privacy Principles and constrained to relevant information only. All employees who are aware of the information should be made aware that further action may be taken if they do not maintain appropriate confidentiality.

6. Employee Entitlements

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

6.1 LEAVE

Public sector employees experiencing or escaping domestic/family violence can 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 number of days available will be proportionate to the full time equivalent (FTE) of that employee. For example, a full-time employee (1.0FTE) is entitled to 15 days, while an employee who works 0.5FTE 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 if a casual employee is absent due to parenting responsibilities.

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 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
- Further Special Leave With Pay.

6.2 FLEXIBLE WORK OPTIONS

Employees who are experiencing or escaping domestic/family violence may require time off or changes to their 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 need.

The flexible working arrangements should be agreed upon by an employee and their manager/supervisor together, to ensure each feels confident with the arrangement and to assist in balancing organisational requirements with the individual needs 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
- Working from Home.

Other eligible employees who are providing care or support for a family or household member experiencing 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 or 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 or supervisor, they may prefer to contact their agency's human resources consultant, 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 the leave was for purposes associated with the experience of domestic/family violence. These reasons include but are not limited to attending medical appointments, legal proceedings, legal assistance, court appearances, counselling, relocation, and the making of safety arrangements. In some instances, depending on the circumstances applicable, retrospective approval of the leave may be approved at the discretion of the decision maker.

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
- 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 or supervisors are to keep strictly confidential all information concerning the leave application. This includes when returning the documentation to the employee once it has been sighted.

6.4 COVID-19 AND DOMESTIC/FAMILY VIOLENCE

While COVID-19 remains a threat in our community, there will be the possibility of employees needing to remain at home for increased periods of time. It is important to recognise that persons experiencing domestic/family violence may be hesitant to work from home as they may be placed at increased risk of violence. Employees should talk to their manager or supervisor to determine if alternative arrangements need to be identified and documented in a workplace domestic/family violence personal safety plan.

6.5 WORKPLACE DOMESTIC/FAMILY VIOLENCE PERSONAL SAFETY PLAN

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

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

7. Support Services for Victims of Domestic/Family Violence

Support Services available to an employee experiencing domestic or family violence include:

- **If in immediate danger, call 000 for Police and/or Ambulance help**

- *1800RESPECT*

This is a 24-hour national sexual assault, family and domestic violence counselling line for any Australian who has experienced, or is at risk of, family and domestic violence and/or sexual assault.

Telephone: 1800 737 732

Web: <https://1800respect.org.au/>

- *Domestic Violence Crisis Line*

A 24-hour hotline for crisis counselling, support, and referral to safe accommodation.

Telephone: 1800 800 098

- *Women's Information Service*

A hotline for referrals to domestic violence services and for safety information.

Telephone: 08 8303 0590

Web: <https://officeforwomen.sa.gov.au/womens-information-service/find-information-online>

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- *QLife*
A free telephone and webchat counselling service available from 3pm to midnight for lesbian, gay, bisexual, trans, queer and intersex (LGBTQIA+) people, families, and friends, delivered by trained LGBTQIA+ community members.
Telephone: 1800 184 527
Web: <https://qlife.org.au/>
- Their agency's Employee Assistance Program (EAP)

RESPONSIBILITIES OF MANAGERS AND SUPERVISORS

The role of managers and 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
- be aware of what support is potentially available to employees experiencing domestic/family violence and explore these options with employees
- ensure that all actions, measures and decisions are made through consultation with the employee experiencing or escaping domestic/family violence
- recognise if the disclosure places the manager's own health and wellbeing at risk (for example, if the disclosure triggers a manager's memory of their own experience with domestic/family violence) and take action, through consultation with the employee, to refer them to another appropriate person).

Employees should not expect their managers or supervisors or human resource consultants to act as counsellors. Managers, supervisors, and human resource consultants 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 experiencing or escaping domestic/family violence. They should also ensure managers and supervisors have access to information on professional counselling services for employees.

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

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
- 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.

8. Employees who perpetrate domestic/family violence

Employee perpetration of domestic/family violence is incompatible with the values, interests, and reputation of the South Australian public sector and may constitute a breach of the *Code of Ethics for the South Australian Public Sector*.

Employee perpetration of domestic/family violence may also pose a risk to the safety and wellbeing of co-workers. Under the *Work Health and Safety Act 2012*, employers have a responsibility to protect workers against harm to their health, safety and welfare through the elimination or minimisation of risks arising from their work.

RESPONDING TO SUSPECTED OR PROVEN EMPLOYEE-PERPETRATED DOMESTIC/FAMILY VIOLENCE

Employees who perpetrate domestic/family violence are responsible for their behaviour and may be subject to disciplinary action, such as suspension and/or termination of employment. This includes committing acts of domestic/family violence within/from the workplace (i.e., using workplace resources such as phone, email, or vehicle) and outside of the workplace (if there is a sufficient connection to an employee's employment).

The safety and wellbeing of the person subjected to violence must be prioritised when responding to employee perpetration of domestic/family violence. Where possible and appropriate, public sector agencies should consult the person subjected to violence in determining workplace responses to employees who perpetrate domestic/family violence, to avoid unintended negative consequences (and for their children, if applicable). Responses should be consistent with the terms of any Intervention Order, where relevant to the workplace.

Where a person experiencing domestic/family violence is co-located within the same agency as the employee perpetrating violence, workplace responses should be determined in consultation with the person subjected to violence to minimise disruption to their employment and safety in the workplace.

REPORTING REQUIREMENTS

The Code of Ethics requires all public sector employees to report to an appropriate authority any workplace behaviour that a reasonable person would suspect violates any law, is a danger to public health or safety or to the environment or amounts to misconduct. This includes employee perpetration of domestic/family violence.

Where a public sector employee reasonably suspects that another public sector employee may be perpetrating domestic/family violence, they should notify the human resources section of their agency so the matter can be investigated, and appropriate action determined.

Where an employee commits domestic/family violence that may be criminal in nature, it may also be appropriate to report such conduct to the South Australia Police (in accordance with the *Guideline of the Commissioner for Public Sector Employment: Management of Unsatisfactory Performance, Including Misconduct*). Third party reports may not necessarily result in a criminal charge.

Where a public sector employee is suspected of perpetrating or experiencing domestic/family violence, and a child may be at risk due to experiencing or witnessing the violence, employees mandated under section 30(3) of the *Children and Young People's (Safety) Act 2017* may be legally obliged to make a report via the Child Abuse Report Line (131 478).

CONFIDENTIALITY

An employee who discloses to management they have perpetrated domestic/family violence must be assured due process will be followed, and their confidentiality maintained, except in circumstances where disclosure is required under an Australian law, or to protect the safety of another person.

SUPPORT SERVICES FOR PERPETRATORS OF DOMESTIC/FAMILY VIOLENCE

Managers or supervisors or human resource consultants are not expected to be counsellors for employees who have perpetrated domestic/family violence and are cautioned against attempting to counsel employee perpetrators.

An employee who discloses they have perpetrated domestic/family violence and seeks support to change their behaviour should be referred to the agency's Employee Assistance Program and/or a specialised support service.

Specialised support for perpetrators is available through:

- *Men's Referral Service*

Available seven days per week, this service provides support, counselling and referral pathways for men seeking support for their behaviour.

Telephone: 1300 766 491

- *MensLine Australia*

A 24-hour telephone and online support and information service for men with relationship concerns including domestic/family violence.

Telephone: 1300 789 978

Web: <http://mensline.org.au/>

- *Relationships Australia*

Relationships Australia provides counselling, support, and courses to reduce violence and increase safety in families. They have specialised programs for aggressors who want to change their behaviour.

Telephone: 1300 364 277

Web: <https://www.rasa.org.au/>

Employees who perpetrate domestic/family violence are not eligible for special leave with pay to address their use of violence. Employees may apply for other types of leave for this purpose but will need to negotiate this with management.

Managers who require personal support or counselling following a staff disclosure of domestic or family violence should contact their Employee Assistance Program provider.

9. 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 Modern Public Sector Enterprise Agreement: Salaried 2017](#)

[SA Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017](#)

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

[Office for Women](#)

[SAPOL Domestic Violence Disclosure Scheme](#)

[Premier and Cabinet Circular – PC 012 – Information Privacy Principles \(IPPS\) Instruction](#)

Appendix 1

ADVICE ON HOW TO DEVELOP 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 the employee's safety or that of their co-workers is at risk in the workplace.

It is the prerogative of an employee to reveal as much of their personal circumstances as they feel comfortable. Employees are under no obligation to reveal information they do not desire to reveal, so long as the safety of other employees is not put at risk because 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 while working.

Employees should also:

- inform their manager or 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 or 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 an 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 a copy be provided to management and security
 - maintain records of any threatening or intimidating emails, 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 can be located via social media, such as colleagues using twitter or Facebook to promote professional or social events
 - are they connected to colleagues on social media, such being Facebook friends, who may be identified by the perpetrator and places them under threat
 - if their workplace is identified on any of their accounts, such as LinkedIn
- do they need to discuss with a manager or 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 or 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 or 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 or 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 at have their current emergency contact information on record
- identify an emergency contact person/s they can be contacted through in the case of an emergency.

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