

Employment Direction No. 28

**FAMILY VIOLENCE – WORKPLACE
ARRANGEMENTS AND REQUIREMENTS**

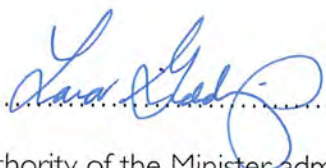
Operative date: 4 February 2013

State Service Act 2000

EMPLOYMENT DIRECTION

Directive

Pursuant to Section 17 of the *State Service Act 2000*, I hereby direct that the arrangements and requirements, set out in this Employment Direction apply.



Issued by authority of the Minister administering the *State Service Act 2000*.

Date: 4-2-13

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1. Purpose

The purpose of this Employment Direction is to prescribe workplace arrangements and requirements for supporting State Service officers and employees experiencing family violence, and their co-workers.

For the purpose of this Direction, an officer or employee 'experiencing family violence' means a person against whom family violence is directed.

2. Application

This Direction applies to State Service officers and employees (hereafter known as employees) and State Service Agencies.

3. Legislation/Award Basis and Related Documents

- Section 4 of the *Family Violence Act 2004* defines an affected person under that Act, as a person against whom family violence is directed.
- Section 7 of the *Family Violence Act 2004* defines conduct which constitutes family violence.
- Section 7 of the *Relationships Act 2003* and Section 4 of the *Family Violence Act 2004* defines family relationships.
- Division 1 and Division 2 of the *Anti-Discrimination Act 1998* which defines discrimination and prohibited conduct.
- Section 9 of the *State Service Act 2000* provides for a Code of Conduct for State Service officers and employees.
- Section 10 of the *State Service Act 2000* provides sanctions for breaches of the Code of Conduct.
- Section 7 1(i) of the *State Service Act 2000* provides that the State Service provides a safe workplace.
- Section 19 of the *Work Health and Safety Act 2012* provides that an employer must, as far as reasonably practicable, ensure the health and safety of employees.
- Section 28 of the *Work Health and Safety Act 2012* provides that employees must take reasonable care for their own health and safety and the health and safety of others.
- Regulation 25 of the *State Service Regulations 2011* provides for the granting of leave on account of special circumstances.
- Public Sector Awards covering State Service employees contain Personal Leave Clauses.

Note: There are a number of State Service employees who have a professional and/or legal obligation under legislation to report on a mandatory basis, violence or abuse they become aware of, or witness in the course of employment.

4. Date of Operation

This Direction will take effect from the operative date and will remain in force until varied or revoked.

5. Direction

Pursuant to Section 17 of the *State Service Act 2000*, I hereby direct that the arrangements and requirements outlined in Attachment 1, apply to State Service Agencies, officers and employees.

6. Reporting and Monitoring

As per the requirements of Section 9 of Attachment 1 of this Direction.

7. Review

This Employment Direction will be reviewed by 30 November 2014.

8. Attachment/s

Attachment 1: Family Violence – Workplace Arrangements and Requirements

Family violence – Workplace arrangements and requirements

1. Introduction – Family violence and the workplace
2. Context
3. Intent
4. Access to personal leave and special leave entitlements
5. Flexible work arrangements
6. Employee Assistance Program – provider requirements
7. Confidentiality
8. Training for workplace contact roles
9. Family violence workplace safety and emergency planning
10. Reporting and evaluation
11. Useful resources

INTRODUCTION

Family violence is experienced by a significant number of Australian workers. While females often experience the most severe and ongoing forms of abuse, family violence also affects males. Furthermore, it affects workers regardless of age, religion, race, sexual identity, disability, ethnicity or economic status.

Family violence often has effects within the workplace whereby the worker's continuing work performance, productivity and, in some cases, health and safety are significantly compromised. The co-workers and clients of an employee experiencing family violence may also be affected.

1. Context

As a signatory to the *National Plan to Reduce Violence Against Women and their Children*, the Tasmanian Government is committed to implement policies, programs and services that reduce and mitigate family violence such as the Safe at Home Program.

There is also a recognition that policies need to address the workplace needs of employees who are experiencing family violence which is the aim of Safe at Work projects.

Specifically, the Tasmanian Government as the State Service employer, is committed to workplace arrangements that support its employees experiencing family violence to remain in employment, maintain financial independence and continue to work safely and productively.

The Tasmanian Government as the State Service employer, does not tolerate family violence being perpetrated by its employees in, or from, the workplace.

Any employee who engages in family violence in the workplace, including using workplace resources (e.g. use of phone, fax, mail, internet or email) for that purpose, is likely to be in breach of the State Service Code of Conduct. A proven breach of the Code of Conduct will be subject to an appropriate sanction (which may include termination) under section 10 of the *State Service Act 2000*.

2. Intent

The intention of this Direction is to establish:

- arrangements that allow employees to access personal leave entitlements (in relevant awards/agreements) to address health issues, or to attend to legal, financial, child care, housing or any other matter arising from family violence;
- arrangements upon which employees may access flexible work arrangements to reasonably accommodate their needs arising from family violence;
- access to Employee Assistance Programs (EAP) or associated services that appropriately support employees experiencing family violence;
- arrangements that ensure that personal information relating to employees experiencing family violence is appropriately managed;
- training requirements for key Agency roles responsible for supporting employees experiencing family violence including Human Resource Managers, Senior

Managers, Line Managers/Supervisors and Equal Employment Opportunity (EEO) Contact Officers; and

- arrangements to assist workplace managers in ensuring that risks to the health and safety of employees experiencing family violence and their co-workers are reasonably managed.

3. Access to personal leave and special leave entitlements

Employees (other than fixed term employees appointed on a casual basis), may access accrued personal leave entitlements under relevant awards/agreements consistent with the purpose and application of this Direction.

Personal leave may be granted to attend to any of the following matters:

- attend medical/counselling appointments;
- maintain safe housing;
- access Police services;
- attend court hearings;
- access legal advice;
- organise child care, education or care services;
- attend to financial matters;
- maintain support networks with children, family and significant others; and
- undertake other related activities.

An employee experiencing family violence may access their accrued personal leave at short notice, or without prior notice provided that notice is given at the earliest opportunity.

Where an employee experiencing family violence has exhausted their full pay personal leave entitlements under an award/agreement, the Head of Agency (or delegate) is to consider granting paid special leave in accordance with State Service Regulation No. 25 of the *State Service Regulations 2011*. Family violence is to be considered a case of pressing necessity for the purpose of State Service Regulation No. 25 (1)(b). A Head of Agency (or delegate) is not to unreasonably refuse to grant special leave for the purpose of this Direction.

Special leave under Regulation No. 25 may be converted to hours for the purposes of granting, taking and recording.

A Head of Agency (or delegate) is to be satisfied, having reasonable regard to the circumstances and sensitivities, that family violence, or the threat of family violence, has occurred.

An employee may make application for personal or special leave to the Agency Human Resources Manager or their Line Manager/Supervisor. In making application, an employee who is a member of a public sector union may authorise a union official or delegate to act on their behalf.

The application is to be supported with documentary information or contact information (with an appropriate authority from the employee) from one of the following:

- Safe at Home service provider (Police, Court Support and Liaison Service, Family Violence Counselling and Support Service, Legal Aid, Magistrates Court);
- Employee Assistance Program (EAP) provider;
- specialist family violence counselling or women's refuge service;
- legal service; or
- medical practitioner.

Where the employee is able to demonstrate that it is not practicable to provide such information, a statutory declaration may be provided.

4. Flexible Working Arrangements

Subject to reasonable operational requirements, Heads of Agency may make flexible working arrangements available to assist and support an employee experiencing family violence.

Such arrangements must take account of the safety of the employee and other parties involved, including but not limited to, their children, co-workers and clients. Changes may include modified or altered working times, required absences, alternative working location, or changes to telephone number, email address or restricted access to on-line Government Directory details.

Arrangements should be reviewed on a regular basis to determine their ongoing need.

5. Employee Assistance Program (EAP) – provider requirements

The Head of Agency is to ensure that their contracted Employee Assistance Program (EAP) provider is either capable of providing employees experiencing family violence with appropriate counselling support, or has established appropriate referral services for that purpose.

EAP services are to be advertised within agency workplaces and are to be available to employees and their family members on a free and confidential basis.

Employees that disclose that they are experiencing family violence are to be provided with information concerning counselling and support services available through either the Agency EAP provider, or through family violence counselling and support services if the employee has not already sought specialist assistance.

6. Confidentiality

Agencies are to ensure that the confidentiality of an employee's personal information (including payroll, work and residential contact details) is assured against loss, disclosure to third parties, unauthorised access, modification or any other form of misuse.

Employee records concerning family violence are to be kept confidential and may only be divulged in exceptional circumstances (after consultation with the employee) where it is imperative to maintain the safety of the employee, co-workers and/or clients. Decisions concerning employee records for the purpose of this Direction are to be made by the Agency Human Resource Manager.

7. Training for workplace contact roles

Agencies are to ensure that personnel undertaking roles such as Human Resource Managers, Senior Managers, Line Managers/Supervisors and Equal Employment Opportunity (EEO) Contact Officers are trained in relation to supporting employees experiencing family violence. The training may be developed and delivered in-house, or may be accessed through an appropriate training broker such as The Training Consortium (TTC) in the Department of Premier and Cabinet.

The training programs are to be tailored to give employees undertaking the above roles a sound understanding of their responsibilities, including relevant State Service workplace policy, employee leave entitlements, workplace safety planning processes and employee support referral options. Public sector unions may also provide a useful support service for member employees.

The contact details for family violence support networks are to be advertised within agency workplaces.

8. Family violence workplace safety and emergency planning

Agencies are to reasonably ensure that employees who report experiencing family violence and their co-workers are safe in their workplace, particularly those in direct client contact roles.

Responsible managers (in conjunction with relevant health and safety committees) are to review existing safety and emergency management systems to consider general risks that may be required to manage family violence in the workplace (e.g. security, information technology and communications protocols) as well as specific risks arising from an employee reporting or disclosing family violence. Systems and plans should take account of foreseeable risks associated with the physical presence of a perpetrator in the workplace as well as the potential for abuse or threats via electronic means.

Where a perpetrator has physically entered the workplace and threatened or harassed the employee or a co-worker, immediate action is to be taken to isolate the individual or have them leave the premises. If there is an immediate threat and/or violence, it is appropriate to call the Police. At a minimum, an incident report is to be completed.

Responsible managers should consult with the employee concerned to assess the level of risk and seek specialist advice from their Human Resources area to assist with reviewing safety and emergency management systems and plans.

9. Reporting and monitoring

Agencies are to provide a report to the Director, State Service Management Office, Department of Premier and Cabinet by 31 October of each year on their compliance with the requirements of this Direction. The report must also include:

- the number of paid personal and special leave days (and equivalent hours) granted to employees for family violence reasons in the previous financial year (such information is to be de-identified); and
- the number of key staff trained in accordance with the requirements of this Direction in the same reporting period.

10. Useful resources

The following link provides useful resources for employers, employees and unions in managing family violence in the workplace.

<http://www.dvandwork.unsw.edu.au/how-guides-model-policies-procedures-and-safety-plans>

The work of the Australian Domestic and Family Violence Clearinghouse (University of New South Wales) and the Commonwealth Department of Employment, Education and Workplace Relations is acknowledged.