

LEAVE FOR DOMESTIC AND FAMILY VIOLENCE PURPOSES ADVICE IN THE ACT PUBLIC SERVICE



PURPOSE

1. The purpose of this Advice is to provide guidance to delegates and HR practitioners on key processes that apply to leave for domestic and family violence purposes as provided in ACTPS enterprise agreements.

BACKGROUND

2. Leave for domestic and family violence purposes was included as a formal entitlement in ACTPS enterprise agreements, effective from 2013, to reflect heightened community understanding of this significant social problem and to appropriately support our employees to engage with specialist support services to resolve or escape this form of violence.
3. Leave for domestic and family violence purposes is not a substitute for personal leave which appropriately supports ACTPS employees experiencing domestic and family violence in meeting injury and medically related absence from the workplace.

ISSUES

Leave Eligibility and Entitlement

4. All employees, including casual employees, are eligible to take leave for domestic and family violence purposes so long as prescribed entitlement and evidentiary conditions are met.
5. An employee experiencing domestic and family violence will have access to a maximum of 20 days/shifts per calendar year paid leave.
6. Permanent full-time and part-time employees are entitled to paid leave for domestic and family violence purposes.
7. While casual employees are entitled to access leave for domestic and family violence purposes they are not entitled to payment for that leave.

Applications for Leave

8. Delegate approval for casuals to access leave without pay is required. However no formal leave application is required to be submitted to Shared Services.

9. Approved applications for paid leave for domestic and family violence purposes are to be submitted to Shared Services on an application for leave form requesting 'other' leave with a stated reason of 'leave not provided for elsewhere with pay' selected.
10. Under no circumstances is any evidence or supporting documentation to accompany the leave application submitted to Shared Services.

Evidentiary Requirements

11. Evidence for this leave may include:
 - > a document issued by the Police
 - > a written referral, issued by a registered medical practitioner or registered nurse, to a counsellor trained in providing support in domestic and family violence situations
 - > a document issued by a Court, or a counsellor trained in providing support to people experiencing the effects of domestic and family violence
 - > written confirmation from an Employee Assistance Program provider or from a domestic and family violence support service that the employee is experiencing domestic and family violence issues.
12. Where supporting documentation is not immediately available upon application the delegate may grant paid leave under personal leave in extraordinary and unforeseen circumstances, subject to available credit. If the employee subsequently produces supporting documentation, the personal leave will be re-credited and the leave taken will be converted to paid leave for domestic and family violence purposes.
13. Retrospective applications may be approved provided that supporting documentation is provided as soon as reasonably practicable. In some situations, the evidence required to submit an application may only become available once an employee takes leave for domestic and family violence purposes. For example, Jane may need to take two days leave to attend court and her local police station in order to obtain evidence of a protection order and police statement.
14. It is the responsibility of the delegate who has been approached to approve the leave application to ensure that they view the supporting documentation as soon as practicable after the leave period has been taken.

15. Should the delegate approving the leave be presented with a statutory declaration in isolation, it should be noted that evidentiary requirements under this leave type were drafted in such a way as to encourage victims to engage with specialist support services. A statutory declaration in isolation (or a series of them) will generally not count as sufficient evidence. However, it is critical that the specific context and complexity of the circumstances surrounding applications for leave for domestic and family violence purposes be considered sensitively on a case by case basis. For example, it may be acceptable for an employee to provide a court document for an initial leave for domestic and family violence purposes application and supplement this evidence with statutory declarations for future applications.
16. If the employee provides evidence that demonstrates that they will be required to attend multiple appointments or counselling over a continuous period of time, e.g. each Monday for the next two months, then this evidence should be sufficient to approve leave applications for that entire period.

Confidentiality Requirements

17. The employee and/or their representative must be advised of ACTPS expectations pertaining to confidentiality and record keeping at the time they apply for leave for domestic and family violence purposes.
18. The delegate who has been approached by the employee or their representative regarding a leave application will be the sole individual who will view the supporting documentation pertaining to leave applications.
19. Having viewed the supporting documentation the delegate will immediately return the documentation to the affected employee who will safely retain it for the calendar year.
20. There may be instances where a branch or division Head is approached rather than the usual delegate or line manager. In these circumstances the branch or division Head will inform the line manager that other leave has been approved with a stated reason of leave not provided for elsewhere with pay.
21. Under no circumstances is the delegate who has been approached with a leave for domestic and family violence purposes application to share its details with other colleagues without the explicit permission of the employee, unless there is an identified threat or safety concern to other employees in the business unit.
22. It is the responsibility of the delegate who is approached by the affected employee or their representative with the leave application(s) to keep a confidential and accurate record of the number of days/shifts taken as leave for domestic and family violence purposes against the employee's entitlement over the calendar year.

23. In the event that the employee moves to a new position, or where their delegation/reporting lines have changed, the employee is required to consider who they would feel comfortable approaching to approve future applications for leave for domestic and family violence purposes.
24. If the delegate who has approved leave for domestic and family violence purposes over the course of a calendar year is to move elsewhere in the ACTPS, or is to leave the ACTPS, they must provide the record of the number of days/shifts taken against the employee's entitlement over the calendar year to another delegate who has been nominated by the affected employee.

Other Considerations

25. There is no expectation for an employee to provide documentary evidence when they are supporting another person experiencing domestic and family violence when applying for personal leave in extraordinary and unforeseen circumstances.

REFERENCE

26. The key reference for this advice is:
 - > Leave for Domestic Violence Purposes (as provided in ACTPS enterprise agreements).



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