



## Factsheet Eighteen

# DOMESTIC VIOLENCE, SEXUAL ASSAULT AND THE WORKPLACE

### What is sexual assault or sexual violence?

Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 is exposed to sexual activities. Sexual assault is a crime. Sexual assault is not the victim's fault.

Sexual assault can happen to anyone in our community. This includes people who are young or old, male or female, from any cultural background, wealthy or not so wealthy, married or not. Anyone can be a victim of sexual assault.

### What is domestic violence?

Domestic violence (sometimes called 'family violence') can take many different forms including intimidation, coercion or isolation, emotional, physical, sexual, financial and spiritual abuse. If you feel scared of a partner, ex partner or a family member, you may be experiencing domestic violence.

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**Around 1 in 3 Australian women will experience domestic violence in their lifetime.**

(Source: [Domestic Violence and the Workplace – Employee, Employer and Union Resources](#), Domestic Violence Workplace Rights and Entitlements Project, University of New South Wales)

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### Is domestic and sexual violence a workplace issue?

It can be. Violence against women can impact on you at work in different ways:

- being prevented or delayed from getting to work;
- crying at work;
- being worried or preoccupied about your safety and the safety of your children/family;
- being harassed or intimidated at work;
- covering up for what is or has been happening;
- managing your full workload;
- being afraid to talk about this at work; or
- being questioned about coming in late or not getting your job done.

Domestic violence can be stressful, upsetting and distracting. It can make it hard to perform your duties and can also be a workplace safety risk.

Remember: Domestic violence is about power and control. You can break the cycle by sticking up for yourself and putting a stop to the abusive behaviour. Getting a protection order is an excellent way to do this. It means taking the power back.

Telling your workplace may be embarrassing, but being upfront about your situation may make it easier if the abusive person tries to cause trouble for you at work later on – if you raise the issue first, it is less likely to be disruptive.

It's important to remember that domestic violence is not your fault and you should not feel ashamed. You have a right to feel safe at home and safe at work.

## Staying Safe at Work

Workplaces have a duty to ensure health and safety. Workers also have a duty to take reasonable care to protect their own safety. Check your workplace health and safety policies; your workplace may even have a policy on workplace violence or harassment. Ask your OHS officer, HR person or manager for the policies if you can't find them and consider talking to your workplace about what it can do to assist you to be safe and keep doing your job. Safety planning can include things like:

- having someone walk you to your car or transport when you leave work;
- asking your workplace to notify relevant staff not to tell anyone private information about your location or movements;
- making sure you're not left alone at a work location with public access; and
- providing a photo of the abusive person to front desk staff, so that they can identify them and call the police if necessary.

## Do I need to tell my work about what is happening?

You only need to tell your workplace about things that directly affect or impact on your work. This includes anything that could pose a workplace safety risk. Is the abusive person:

- Constantly calling, emailing or texting you at work?
- Following you to or from work?
- Making threats to harm you or your co-workers at work?
- Threatening to tell your boss embarrassing personal information?
- Coming into or hanging around your workplace to intimidate you?

If so, you should tell your workplace.

Another thing to consider is whether you need to negotiate time off to go to court, arrange accommodation or attend appointments with support services, your child's school or your bank. Or if you need to organise temporary safety measures such as changes to your working times and patterns.

Attitudes to domestic violence vary: some workplaces are supportive, providing paid leave and flexible working arrangements, others are less supportive.

### Does the NT Mandatory Reporting of Domestic and Family Violence Legislation cover my workplace too?

Yes it does. The *Mandatory Reporting of Domestic and Family Violence Legislation* means that any adult, including your co-workers, supervisor or manager, is obliged to report to the police if they believe that either or both of the following circumstances exist:

- another person has caused, or is likely to cause, harm to someone else (the victim) with whom the other person is in a domestic relationship;
- the life or safety of another person (also the victim) is under serious or imminent threat because domestic violence has been, is being or is about to be committed.

This means that if you disclose to somebody at work that you have been seriously harmed or believe that you might be seriously harmed, they are obliged to tell the police as soon as practicably.

The person that you disclose to does not have to report the domestic violence to the police if:

- the domestic violence is not 'serious harm or physical harm';
- you, or somebody else, has already reported to the police.

The definition of harm is very broad and includes physical harm or harm to a person's mental health, whether it be temporary or permanent.

Physical harm includes unconsciousness, pain, disfigurement, infection with diseases and any physical contact with a person that a person might reasonably object to, whether or not the person is aware of it at the time.

Mental harm includes significant psychological harm, but does not include ordinary reactions such as those of distress, grief, fear or anger.

Serious harm means harm, including the cumulative effect of more than one harm that:

- endangers, or is likely to endanger a person's life; or
- that is or is likely to be significant and longstanding.

The person that you disclose to may delay a report of domestic violence to the police if:

- they are planning your removal and intend to report to the police after your removal;
- they believe that a report to the police as soon as practicable will pose a serious or imminent threat to the life or safety of any person.

## Can I take leave to deal with domestic violence issues?

Yes you can, but exactly what leave you can take and how much leave you can take depends on where you work and what is in your contract of employment.

### **Personal/Carer's and Compassionate Leave**

All workers in the Northern Territory have the right to take Personal/Carer's and compassionate leave under the National Employment Standards (NES) and may do so for health issues related to domestic violence, sexual assault, or for issues related to being the carer of a person who has health issues as a result of experiencing domestic violence or sexual assault.

Under the NES, all permanent employees are entitled to:

- 10 days of paid personal/carers leave per year;
- a further 2 days of unpaid carer's leave per occasion if all paid leave has been used up; and
- 2 days of paid compassionate leave per occasion.

Under the NES, casuals are entitled to:

- 2 days of unpaid carer's leave per occasion; and
- 2 days of unpaid compassionate leave per occasion.

Personal/carers leave can be taken if:

- you are not fit to work because of personal illness or injury, or
- you need to provide care or support for a member of your immediate family or household due to personal illness or injury, or an unexpected emergency. The definition of immediate family includes your spouse, de facto partner, child, parent, grandparent, grandchild or sibling, and your spouse or de facto partner's child, parent, grandparent, grandchild or sibling.

Compassionate leave can be taken if a member of your immediate family or household dies or has an illness or injury that poses a serious threat to their life.

### **Annual Leave**

Under the NES, permanent full-time workers are entitled to 4 weeks of paid annual leave

each year, and permanent part-time workers are entitled to this on a pro-rata basis. Some shift workers are entitled to 1 extra week of annual leave each year. An employer may offer more than 4 weeks paid annual leave. For example Northern Territory Government employees have an entitlement of 6 weeks annual leave per year.

Your employer cannot unreasonably refuse your request for annual leave.

### **Casual employees**

Casual employees are not entitled to paid annual leave under the NES but you may be entitled to leave without pay. Check with your employer.

### **Fixed term contract workers**

Fixed term contract employees are generally entitled to annual leave. Usually the allocation of leave is estimated at a pro-rata basis. For example if you are employed on a fixed contract for 6 months, you would be entitled to 2 weeks annual leave (rather than 4 weeks which is the full annual entitlement under the NES).

More information about Annual Leave and Personal/Carer's and Compassionate Leave can be found in factsheet 5 *What leave can I take?*

## **Are there any dedicated Domestic and Sexual Violence Leave Entitlements?**

### **NT Public Servants**

In late 2012 the Northern Territory Government announced that public servants in the NT may apply for miscellaneous leave for issues related to domestic, family and sexual violence. NT public servants may use miscellaneous leave for;

- seeking safe accommodation;
- attending medical appointments;
- attending counselling appointments;
- attending court hearings;
- accessing legal advice;
- organising alternative care or education arrangements for their children; and/or
- other related purposes approved by the CEO.

### **Private and Community Sector Workers**

As a result of a campaign launched by the Australian Domestic and Family Violence Clearinghouse more and more NT employers are introducing entitlements for domestic and sexual violence related issues. Some of those workplaces offer paid leave and some offer flexible working arrangements and appropriate support. Though the majority of NT workplaces have not introduced these entitlements, it is worth asking if there is any such thing in your workplace.

If you would like to know more about this issue, we recommend you go to the Australian Domestic and Family Violence Clearinghouse website. It provides information to workers

and employers [www.dvandwork.unsw.edu.au/](http://www.dvandwork.unsw.edu.au/)

If you do not have access to the internet then call the NT Working Women's Centre for more information.

### Can I request flexible working arrangements because of domestic violence?

If you have 12 months continuous service with the employer, and, if you are a casual, you have an expectation of ongoing employment on a regular and systematic basis, you have the right to request flexible working arrangements. You can make the request if you are experiencing domestic or family violence or if you are the carer of somebody who is experiencing domestic or family violence.

You must make the request for flexible working arrangements in writing and include what change you are wanting and why. It is also a good idea to consider and include any benefits to the employer in your proposal.

Your employer must give you a written response within 21 days, stating whether the request is granted or refused, and if refused, provide their reasons. You should be able to clearly understand why your request is rejected. They cannot just give a refusal without reasons. A request can only be refused on reasonable business grounds which may include the effect on the workplace, including the financial impact and the impact on efficiency, productivity and customer service; the inability to organise work among existing staff; and the inability to recruit a replacement employee or the practicality or otherwise of the arrangements that may need to be put in place to accommodate the request.

If your request for flexible working arrangements is rejected and you are not satisfied with your employer's stated reasons, then you can go to the Fair Work Commission for assistance in resolving the disagreement. However, the Fair Work Commission can only help you if this is provided for in your contract of employment, enterprise agreement or Modern Award.

### I'd like to introduce Domestic and Sexual Violence Leave Entitlements into my workplace. How can I do that?

If you've got access to the internet start by having a look at the Australian Domestic and Family Violence Clearinghouse website [www.dvandwork.unsw.edu.au/](http://www.dvandwork.unsw.edu.au/) on how to do this. Once you've done that contact the NT Working Women's Centre and we'll help you take the next step. If you are a member of a union talk to your union about this idea and they will provide you with advice about what to do next.

### Where can I get more help?

## **NT Working Women's Centre**

Freecall: 1800 817 055

Web: [www.ntwwc.com.au](http://www.ntwwc.com.au)

## **Your Union**

Unions NT

Ph: 8941 0001

Web: [www.unionsnt.com.au](http://www.unionsnt.com.au)

## **Australian Domestic and Family Violence Clearinghouse**

Web: [www.dvandwork.unsw.edu.au](http://www.dvandwork.unsw.edu.au)

Please note that the above website was part of a project that ended in June 2013. It is an excellent source of information but the website will not be updated after June 2013.

## **To access an interpreter**

Interpreting and Translating Service NT

Ph: 1800 676 254

Web: [www.itsnt.nt.gov.au/](http://www.itsnt.nt.gov.au/)

Aboriginal Interpreter Service

Ph: 8999 8353

Web: [www.ais.nt.gov.au/](http://www.ais.nt.gov.au/)

## **For people with a hearing and/or speech impairment**

National Relay Service

Ph: 133 677

Freecall: 1800 555 677

The NT Working Women's Centre provides free and confidential information, advice and assistance to women about work related matters.

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**NT Working Women's Centre 1800 817 055**

**[www.ntwwc.com.au](http://www.ntwwc.com.au)**