

VICTIMS OF DOMESTIC VIOLENCE – SAMPLE POLICY

Sample Domestic Violence Policy & Information for Employees

..... (Employer's, company's name) is concerned about the level of domestic violence in New Zealand and is committed to offering support both to employees currently affected and to employees affected by domestic violence in the past. We emphasise that all our employees need to recognise the importance of providing proper assistance to anyone in such circumstances, so the experience of domestic violence does not force them to leave their job.

We will ensure all employees understand why those affected by domestic violence may need to avail themselves of the entitlements provided by the Domestic Violence – Victims' Protection – Act 2018 and acknowledge the reasons for providing support.

Domestic violence is recognised as physical, sexual and psychological abuse, in the latter case abuse such as intimidation, harassment, damage to property threats of abuse, financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education).

Domestic violence is also the psychological abuse of a child by causing or allowing the child to see or hear the physical, sexual, or psychological abuse of someone with whom the child has a domestic relationship or putting the child at real risk of seeing or hearing that abuse.

The employer/company understands the work performance of an employee affected by domestic violence may be temporarily affected by the experience and the employee may have difficulty in fulfilling job responsibilities. Employees who feel their work is affected by domestic violence should contact (support person) to learn what options are available to help them with their difficulties. They can be assured all such inquiries will be treated in the strictest confidence as, subsequently, will the fact that they are receiving support.

..... (employer or company) respects the right of employees affected by domestic violence to privacy and any information they might provide will remain strictly confidential unless a court of competent jurisdiction requires disclosure or disclosure is necessary to protect the safety of the employee affected by domestic violence or that of other individuals in the workplace. In the latter case, disclosure will be limited to such disclosure as is reasonably necessary to safeguard both the affected employee and others in the workplace and to comply with the law.

An employer who considers information provided on a confidential basis must, to maintain workplace safety, be shared with another person or other persons will, if it is reasonably practicable to do so, provide advance notice to the employee affected by domestic violence, explaining the reason why the information has to be disclosed. If it is necessary to disclose the employee's information, the employer will tell the employee the name or names of the person or persons to whom the employer intends to share the information.

Employees will not be discriminated against or treated adversely because they are affected by domestic violence and are entitled to take a personal grievance, or a complaint to the Human Rights Commission should adverse treatment be experienced.

Set out below for your information are employees' entitlements under the Domestic Violence – Victims' Protection – Act 2018.

Guide for employees affected by domestic violence or who have a child under the age of 17 living with them who is affected by domestic violence

If you are affected by domestic violence, or usually have a child under the age of 17 living with you who is affected by domestic violence, you can:

- make a written request for a flexible short-term variation or variations (not more than 2 months) in your working arrangements
- take up to 10 days domestic violence leave in any one year

All requests should be taken to your manager or supervisor (or to named person) and will be treated confidentially.

Requests for flexible short-term variations in working arrangements (not more than 2 months)

- You, or someone on your behalf, can make a written request at any time even if the domestic violence occurred before we employed you. You may ask for a change of duties, hours, days and place of work, or any other variation in your terms of employment that would help you deal with the effects of domestic violence, including the extent of the contact details you have to give us
- To support your application you, or someone on your behalf, may be asked to provide proof you are a person affected by domestic violence
- Your request must be made in writing and state:
 - your name
 - the date the request was made
 - that the request is made under Part 1 of the Domestic Violence – Victims' Protection Act
 - how you want your working arrangements varied and for how long (less than 2 months)
 - the date you want any variation to apply from and when you want it to end
 - how you think varying your work arrangements will help you deal with the domestic violence
 - the changes (if any) you think we will have to make if we approve your request

Our response

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- We will let you know in writing as soon as possible, but not later than 10 working days of receiving your request, whether or not it has been approved. We will also provide you with information about specialist domestic violence support services
- If we refuse your request, we will tell you why it was refused
- If we want you to provide proof you are someone affected by domestic violence we will let you know within 3 days of receiving your request. You will need to provide the proof as soon as practicable but not later than 10 working days from the time we received your request

Reasons for refusing a request

- We can refuse your request if we asked for proof you are someone affected by domestic violence and you didn't provide it within 10 working days
- We can also refuse your request if we can't accommodate it because:
 - we can't re-organise the work among existing staff
 - we can't recruit additional staff
 - granting it would have a detrimental impact on quality or performance
 - there wouldn't be enough work during the periods you are proposing to work
 - we are planning structural changes
 - the additional costs would be a burden
 - granting the request would have a detrimental effect on customer demand

What you can do if you don't get a proper response or if you are not treated well because you are affected, or assumed to be affected, by domestic violence

- If we haven't responded to your request within 10 working days or have failed to tell you why your request was refused, you can refer the matter to a Labour Inspector or to mediation, or ask the Employment Relations Authority to decide whether or not we responded as required. You will need to apply within the 6-month period beginning 10 days after you received our refusal notice, if we provide the notice within 10 working days of your request. If we don't reply within 10 working days, the time for making an application starts 10 working days after we received your request, again running for a 6-month period
- You can also take a personal grievance if you are treated adversely because you are affected, or assumed to be affected, by domestic violence (or were in the past). Adverse treatment means:
 - being dismissed when other employees doing the same work were not or wouldn't be dismissed
 - not being offered the same terms of employment work conditions, fringe benefits or opportunities for training, promotion or transfer as other similarly qualified, experienced or skilled employees, working in the same or substantially similar circumstances

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- being treated in some way that disadvantages the employee when other employees are not
- being required or caused to retire or resign

Domestic violence leave

Entitlement to domestic violence leave

- If you are affected by domestic violence you can take domestic violence leave if you have completed 6 months current continuous service OR in a six month period you have worked for at least an average of 10 hours a week with no less than 1 hour a week or 40 each month. After 6 months there is a yearly entitlement of up to 10 days leave. The leave doesn't accumulate, can't be carried forward and if has not been taken when employment ends is not paid out
- While the leave entitlement accrues only after 6 months' employment, in some circumstances we may agree to your taking leave before becoming entitled to it
- If you intend to take leave you must let us (your manager or supervisor or nominated person) know as soon as possible before you are due to start work on the day in question, or if that is not practicable, as early as possible after that time. You might be asked to provide proof that you are someone affected by domestic violence
- Payment for domestic violence leave is relevant or average daily pay for any day when you would otherwise have worked. You will be paid in the pay for the pay period when you take the leave. You won't be paid a domestic violence leave payment if you are receiving weekly accident compensation and a first week's absence on accident compensation cannot be taken as domestic violence leave
- If we agree to pay the difference between first week or weekly accident compensation and your ordinary weekly pay, we can deduct 1 day for every 5 whole days the additional payment is made from your domestic violence leave entitlement
- Domestic violence leave will substitute for your annual holiday leave if you are affected by domestic violence while on annual holiday leave or before taking an annual holiday which has already been agreed
- If in any year, you use up all your domestic violence leave and require more leave, we may agree to your using your annual holiday entitlement instead

Freedom from adverse treatment in employment (Human Rights Act)

Persons affected by domestic violence

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- Persons affected by domestic violence are those subject to physical, sexual and psychological abuse. Psychological abuse is abuse such as intimidation, harassment, damage to property threats of abuse, financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education)
- Persons affected by domestic violence are also those who usually live with a child under the age of 17 where the child is considered psychologically abused by seeing or hearing the domestic violence suffered by that person, or is a real risk of being psychologically abused

A single act might constitute abuse or a number of acts, even if apparently trivial, might form a pattern of abuse when taken together.

Adverse treatment

- Adverse treatment is being:
 - dismissed when other employees doing the same work are not dismissed
 - refused or not offered the same terms of employment, work conditions, fringe benefits or opportunities for training, promotion or transfer as other employees with the same or substantially similar qualifications, experience or skills who are similarly employed
 - subjected to some detrimental action when others similarly employed are not
 - required to retire or resign.

No-one, either in paid or unpaid employment, or applying for work, must be treated badly, or threatened with bad or adverse treatment because they are affected by domestic violence