



# Domestic and Family Violence A Real Workplace Issue for Women

## Discussion Paper Summary

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JobWatch is an employment rights community legal centre, committed to improving the lives of Victorian workers, particularly those most vulnerable and disadvantaged.

The workplace rights of employees who are affected by domestic and family violence have emerged as a significant and pressing concern.

Australian workplaces have a history of tackling issues with pragmatism and common sense, acknowledging that employee experiences outside the workplace have implications within it and that supporting employees has considerable reciprocal benefit. Australian workplaces have taken action on important issues from sexual harassment to mental health, racism and beyond, demonstrating insight and leadership. Domestic and family violence is another contemporary issue in need of immediate and concerted action for the benefit of employees and employers alike.

JobWatch's experience with employees living with domestic and family violence is that too often affected employees, already dealing with the debilitating impact of domestic and family violence on their safety and wellbeing, are subjected to compounded adversity in the form of unfavourable workplace treatment. JobWatch hears devastating stories from affected employees who are unfairly dismissed, refused flexible working arrangements imperative to their safety, threatened and given ultimatums.

For these employees, inappropriate and ineffective workplace responses leave them unsupported in turbulent and deeply challenging circumstances. Inadequate responses also leave employers open to significant cost consequences.



A growing body of evidence demonstrates the significant impact of domestic and family violence on employment. The majority of victims have paid employment and their experiences can carry over into the workplace in the form of absenteeism and impaired performance, which may result in termination of employment. Employees may also experience violence directed at the workplace. While it can undermine the economic independence of victims and increase their vulnerability to abuse, domestic and family violence can also have direct cost consequences for employers.

Current data demonstrates the considerable workplace implications of employee experiences of domestic and family violence and forms a convincing argument for the expansion of workplace responses. Addressing domestic and family violence appropriately and effectively in the workplace is critical to ensuring the safety, security and wellbeing of victims of domestic and family violence, as well as mitigating the negative repercussions that can arise for employers. To properly address these issues legislative, social and cultural change is required.

This discussion paper aims to assist policy makers, employers and other stakeholders to understand the significant impact of domestic and family violence on employment. The paper also examines pertinent legislative as well as social and cultural gaps that impede appropriate and effective workplace responses to domestic and family violence. JobWatch presents a number of recommendations to enhance the protection and support of victims of domestic and family violence in the workplace.

## **Recommendations Summary**

### **Leave Entitlements**

JobWatch recommends that paid domestic and family violence leave be introduced into the National Employment Standards or alternatively into Modern Awards/Enterprise Agreements.

### **Unfair Dismissal**

JobWatch recommends that Unfair Dismissal protection be extended to



contractors, all casual employees and those with less than 6 or 12 months continuous service in cases involving domestic and family violence.

### **Flexible Working Arrangements**

JobWatch recommends that flexible working arrangements be extended to cover a broader range of workers in cases involving domestic and family violence. Further, that the standard to refuse flexible working arrangements be raised from '*reasonable business grounds*' to '*genuine and significant hardship*' in cases involving domestic and family violence and that the employer response period to these requests be reduced. JobWatch also recommends that any employer refusal to accommodate flexible working arrangements should be reviewable by either the Fair Work Commission or a Federal Court and that upon receiving notification of domestic and family violence, employers should be required to implement a Mandatory Workplace and Personal Safety Plan.

### **Discrimination**

JobWatch recommends that domestic and family violence be added as a protected attribute in the *Fair Work Act* as well as in state and federal anti-discrimination law.

### **Information**

JobWatch recommends that the *Fair Work Act* require employees be provided with an Employee Safety Resource on commencement of their employment or as soon as practicable after the commencement of their employment.

### **Social and Cultural**

JobWatch recommends that more robust data and evidence regarding responses to domestic and family violence in employment be collected and that community awareness of domestic and family violence as a workplace concern be improved via a government-helmed national campaign.

JobWatch recommends that employers take action to create safe, open workplace environments that support employees to disclose violence and



receive appropriate and effective responses and that more robust data and evidence regarding organisational cultural changes is collected to better protect and support employees affected by domestic and family violence.

JobWatch recommends that nationally consistent outreach education and training services be implemented along with the widespread implementation of clear, robust domestic and family violence policies and procedures at the workplace level. Further, that frameworks for the facilitation of partnerships between workplaces and specialist domestic and family violence services be enhanced.

Finally, JobWatch recommends that explicit measures to address the employment implications of domestic and family violence be incorporated into the Fourth Action Plan of the National Plan to Reduce Violence Against Women and their Children (2019-2022) under the new National Priority of Improving Employment Outcomes for Women Experiencing Violence.