

The Australian HR Institute

**Submission to the Senate
Education and Employment Committee
on the**

***Fair Work Amendment (Paid Family and Domestic
Violence Leave) Bill 2022***

August 2022



The Australian HR Institute

The Australian HR Institute (AHRI) is the professional body for Human Resources in Australia, with approximately 16,000 members from Australia and internationally.

AHRI sets industry standards for HR practice through both the AHRI Practising Certification program and industry accreditation of HR qualifications at Australian universities.

Professional membership with AHRI ensures that HR practitioners:

- Adhere to a robust professional code of conduct that is supported by governance requirements and disciplinary procedures
- Are effectively supported in their continuing professional development to ensure currency of skills and knowledge is maintained
- AHRI provides a wide range of learning and development opportunities in HR, people management and business skills
- AHRI's globally benchmarked Australian HR Capability Framework underpins all AHRI's professional development products, events, and programs, and combines what HR practitioners should know, what they are expected to do, and what their peers expect them to be in terms of behaviours and capabilities
- AHRI conducts independent research and liaises with both Australian and international partners on matters of interest to Australian employees and workplaces.

Summary

AHRI supports the introduction of an entitlement to 10 days of paid family and domestic violence leave (FDVL) in the National Employment Standards.

Administrative cost and burden

AHRI believes that the bill is likely to impose a low administrative burden and cost on employers, while enabling victims to take leave to deal with the impacts of family and domestic violence. This is expected to include a modest one-off cost in terms of adjustments to the HR and payroll system.

The new provisions will support victims of family and domestic violence to remain in the labour market.

AHRI supports the 'notice and evidence requirements that would apply to paid FDVL being consistent with those already provided for in the Act in respect of other leave entitlements, including unpaid family and domestic violence leave'; as provided in explanatory note 18.

For simplification, AHRI recommends incorporating FDVL into the current 'Other Leave (Personal/carer's leave, compassionate leave and unpaid family and domestic violence leave)' section where it currently sits, rather than as an additional National Employment Standard.

Small business

AHRI supports the consideration for small business to be given an extra six months to implement the new legislation.

Small businesses assume a disproportionate cost and administrative burden in relation to one-off cost of adjustments to the HR and payroll system, as well as often having a general lack of specialist HR resources.

Casual workers

AHRI agrees that casual workers should be entitled to paid FDVL if they have accepted shifts in advance, as outlined in the proposed bill. While there may be some administrative complexity when dealing with different rostering scenarios, we note that the new arrangement is no different to the way in which the current five days unpaid FDVL leave arrangement is administered.

Overlap with personal/carer's leave

AHRI appreciates the potential overlap between personal/carer's leave and the proposed FDVL provisions.

Together, the two leave provisions could combine to a total of 20 paid days of leave in the National Employment Standards for victims of family and domestic violence.

If it is not the intention of the proposed FDVL provisions to increase the overall paid leave provisions for victims of family and domestic violence, we recommend that the paid personal/carer's leave be updated to expressly exclude family and domestic violence leave and instead refer to the FDVL provisions.

In either case, a potential solution to this ambiguity lies in incorporating FDVL into the current 'Other Leave (Personal/carer's leave, compassionate leave and unpaid family and domestic violence leave)' section where it currently sits, rather than as an additional National Employment Standard.

Recommendations for additional support

While not included in the proposed bill, AHRI believes that access to a day-one right to request flexible working would support victims of family and domestic violence with less than 12 months' service. Currently, employees are not entitled to make the request unless they have completed 12 months of continuous service with their employer.

The introduction of a day-one right would allow employees experiencing family and domestic violence to access support beyond the 10 days' paid leave, support them to remain in the labour market and support them to structure work commitments around childcare where needed.

AHRI also recommends that the Fair Work Ombudsman provide more guidance and information to both victims of family and domestic violence and employers. This would ensure that employers are not expected to become de-facto experts in family and domestic violence.

This support could include signposting to supportive services, charities and organisations and outline the types of support that victims of domestic violence might need. These may include legal support, housing support, support with childcare, support in dealing with financial abuse and specialist counselling.

***Prepared by:
Australian HR Institute
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