



**Australian Government**  
**Australian Public Service Commission**

**Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018**

Submission

Australian Public Service Commission

**Overview**

1. The Australian Public Service Commission (APSC) strongly favours all employers supporting employees who have been impacted by family and domestic violence.
2. The introduction by the Government of the Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018 to provide a 5 day minimum unpaid entitlement is a positive development in ensuring all employees have minimum protections in place.
3. Consideration should be given to the support employers may need to effectively implement this entitlement.

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4. The APSC has statutory responsibilities for a range of employee-related functions and outcomes as outlined in the *Public Service Act 1999*. It supports the Australian Public Service (APS) and its employees to serve the Australian public. The APS is a significant employer, with around 150,000 employees.
5. The APSC is responsible for administering the Government's *Workplace Bargaining Policy 2018* (the policy). This role includes ensuring that Commonwealth employees' terms and conditions are compliant with that policy. Terms and conditions in Australian Government employment are usually provided through enterprise agreements.
6. The policy requires that Australian Government employers put in place policies and practices that provide maximum support to employees who are affected by family and domestic violence.
7. The APSC actively encourages all Australian Government employers to take a holistic approach to supporting impacted employees, taking into account their individual circumstances.



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**Existing family and domestic violence support for Australian Government employees**

8. Australian Government employers provide a high standard of support for employees who are impacted by family and domestic violence.
9. Generally, Australian Government employers support affected employees using existing provisions such as personal/carer's or miscellaneous leave. Much of the leave provided for this purpose is paid leave.
10. Personal/carer's leave in Australian Government employment is generous, and generally sits well above the ten day National Employment Standards minimum entitlement.
11. Miscellaneous leave is a common leave type in Australian Government employment that allows paid or unpaid leave to be approved for an employee on a discretionary basis as appropriate. As it is discretionary, it is essentially uncapped.
12. The APSC encourages Australian Government employers to provide support that is appropriate and tailored to the affected employee's situation. It is important to recognise that every employee's circumstances will be different.
13. Provision of leave is just one way Australian Government employers provide support to employees affected by family and domestic violence.
14. Australian Government employers commonly provide a range of other support, including flexible working arrangements, personal safety plans and access to employer funded counselling.
15. To assist Australian Government employers, the APSC has provided a template family and domestic violence framework that employers are able to modify and use.

**Employee privacy and safety**

16. It is vital to ensure that the privacy of employees affected by family and domestic violence is protected to ensure their safety.
17. For this reason, the APSC strongly supports the inclusion of section 106C in the Bill.
18. It is critical that employers exercise utmost care so that employees accessing Family and Domestic Violence Leave are not inadvertently exposed to further harm, danger or loss of privacy resulting from the administration of the leave.
19. In introducing this leave, there will be a need for employers to be made aware of potential privacy and safety risks, and supported to confidently manage these risks. The APSC recommends that guidance material be made available to employers as part of the implementation process.



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**Interaction with other entitlements**

20. The APSC notes that s106B provides reasons for taking unpaid Family and Domestic Violence Leave.
21. There could be confusion as to where an employee is entitled to take available paid personal/carer's leave in preference to leave under 106B. This is particularly relevant where leave is required for an unexpected emergency affecting a family member as per s97(b)(ii) of the *Fair Work Act 2009*.
22. It may be useful for further clarification to be provided.

**Conclusion**

23. Employers have a vital role assisting the victims of family and domestic violence. The APSC supports employees being provided with every support necessary.
24. The APSC supports the proposed Bill. However, in doing so, the APSC urges caution in the administration of this leave. Australian employers will need to be provided with adequate support in administering the provision of this new leave type.
25. Information on the potential security, privacy and safety risks and implications associated with its provision and its administration will assist in ensuring affected employees are protected from repercussions and are appropriately supported and kept safe.