



Family and Domestic Violence Leave Procedure

1. Guiding Principles

Premier's Circular 2017/07: Family and Domestic Violence – Paid Leave and Workplace Support dated 18 August 2017 states the Government's commitment to providing workplace support measures to employees in situations of family and domestic violence (FDV). One aspect of this is the introduction of an additional leave entitlement for all employees, including casuals.

The Department of Mines, Industry Regulation and Safety subsequently released Circular No 5 of 2017 – Family and Domestic Violence – Paid Leave and Workplace Support Guidelines to support the Premier's Circular.

This procedure outlines how this leave entitlement is to be applied. It does not capture all scenarios that may arise but is a minimum standard to be complied with.

2. Procedure

2.1 Family and Domestic Violence Leave Entitlement

- An employee experiencing FDV is to have access to ten (10) non-accumulative days per calendar year of paid FDV leave in addition to their existing leave entitlements.
- FDV leave is to be paid at the full rate of pay as if the day was worked. Payment for FDV leave is only to be made for those hours that would normally have been worked had the employee not been on FDV leave.
- Upon exhaustion of the FDV paid leave entitlement, an employee will be entitled to up to two (2) days unpaid FDV leave on each occasion that they need it. There is no requirement for employees to have exhausted other forms of leave in order to access the unpaid FDV leave entitlement.
- FDV leave can be used for activities related to family and domestic violence. Such activities may include but are not limited to attendance at medical appointments; legal proceedings; counselling; appointments with a medical or legal practitioner; relocation or making other safety arrangements; and matters of a compassionate or pressing nature which arise without notice and require immediate attention.
- Subject to the employer's approval of the application, FDV leave may be taken as whole or part days off.

- Casual employees who are not able to attend scheduled work because of FDV related activities will be entitled to up to ten (10) days FDV paid leave according to their regular work patterns on a case-by-case basis. Casual employees are not to be overlooked or denied future work because of an application for FDV leave.
- FDV leave does not affect salary increment dates, long service leave entitlements or annual leave entitlements.
- Subject to the leave provisions of an employee's industrial instrument, an employee experiencing FDV may use other leave entitlements.

Refer to the [WA Health Awards and Agreements Library](#) for other forms of leave.

2.2 Confidentiality

- WA Country Health Service (WACHS) is to take all reasonable steps to ensure any information disclosed by employees regarding FDV via their leave application process is kept strictly confidential.
- Only the employee is to retain a copy of evidence for accessing FDV leave and information is not to be kept on the employee's personnel file.
- An employee who discloses FDV is to be made aware of how their leave application is to be managed and processed with Health Support Services (HSS).
- While the privacy of employees will be respected, disclosure within the organisation may occur on a need-to-know basis, or, where there are concerns for the safety of any employee / patient / client or visitor.
- Where possible, disclosure will only occur with the prior consent of the employee.

2.3 Leave Application Process

- Employees may make applications for leave to deal with activities related to FDV. Managers are to assess each application and give consideration to the personal circumstances of the employee seeking the leave.
- The employee is to give their manager notice as soon as reasonably practicable of their need to take FDV leave.
- Managers are to treat employee requests for FDV leave with sensitivity, compassion and confidentiality.

- Managers are to ensure that decisions on FDV leave requests:
 - consider the personal circumstances of the employee seeking the leave in a non-judgmental manner. It is important to recognise and have respect for employees' cultural and ethnic background, gender, sexual orientation, disability and age.
 - take into consideration issues such as employee's safety, health and wellbeing, fairness and equity.
 - are made in accordance with the relevant industrial instrument.
- Supporting evidence outlining reasons for absence due to FDV may be required to access paid leave entitlements. Leave can be granted without supporting documentation when the employer is satisfied that it is not required.
- Evidence may be in the form of but not limited to: a document issued by the police, a court, a legal service, a health professional or a counsellor, or a refuge service. A statutory declaration may be accepted.
- Employees experiencing FDV who may not be in a position to immediately provide supporting documentation are not to be denied FDV leave in the absence of evidence.
- Evidence will be dealt with in accordance with the confidentiality provisions in the Premier's Circular, section 3 of this document and organisational policies.
- **Managers are to sight evidence, however only the employee is to retain a copy of the evidence and information is not to be kept on an employee's personnel file.**

2.4 FDV Leave Bookings

- Mandatory requirements for leave bookings apply to FDV leave.
- FDV leave is to be booked as '**Special Leave**' with or without pay.
- Special Leave is a generic leave category used for non-typical leave types and does not identify the reason for the absence.
- For employees on RoStar, the manager must ensure that a 'special leave' booking is reflected in RoStar. To protect confidentiality, wherever possible no disclosure is to be made as to the purpose of the special leave.
- All other employees are to submit a HSS leave form ([eForm eL3 or Excel / eForm eL3 or Excel / PDF forms L1 \(Leave Doctors\) or L2 \(Leave Non Medical\)](#)) for the manager's approval as soon as practicable.

(Note : Special Leave cannot be booked via MyHR for Alesco users)

- In the 'Comments' section of the electronic and Excel / Acrobat leave forms, the employee can indicate 'without pay' if the FDV entitlement has been exhausted. **In order to protect the confidentiality of the employee, no information about the reason for the special leave is to be included in the "Comments" section.**
- When approving electronic leave application form eL3, the manager is to record on the leave form in the "Additional Information" section that "evidence has been sighted." **To ensure confidentiality, no specific information about the evidence or reason for the special leave is to be included.**

eL3 Form

Approver 1

Approver Name: Phone: HE Number: Date:

Mandatory Approvals

These are the approvals that HSS requires to process the form. Only complete if you have the appropriate authorisation.
Note: This form can be sent to any number of approvers (above) if your site has additional approval requirements.

Manager/Supervisor

Additional Information:

Attachments

Insert row

Save

Submit

Excel / Acrobat Leave forms

- When approving the Excel / Acrobat leave application forms L1 and L2, the manager is to tick “yes” under “reasonable evidence given”.
- **To ensure confidentiality, no specific information about the evidence or reason for the special leave is to be included on the form.**

L2 LEAVE NON MEDICAL Page 2

(E) MANAGER APPROVAL :

*Approved: Yes No

Medical Certificate sighted/Reasonable evidence given: Yes No

Please provide a comment below, if **NOT** approved. Medical Certificate: Attached To follow

Data Entry Point: Already recorded in Lattice Already recorded in RoStar

Employee RoStar Admin Unit: _____

Leave relief arrangements made Leave being covered by...

Employee Number: _____ Family Name: _____

Given Name(s): _____

*Manager/Supervisor Name: _____ *Telephone/Ext: _____ *HE Number: H E _____ *Date: _____

L1 LEAVE DOCTORS Page 2

(F) MANAGER / SUPERVISOR APPROVAL :

Approved: Yes No

Medical Certificate sighted/Reasonable evidence given: Yes No

Comments: (if leave not approved)

Data Entry Point: Already recorded in Lattice Already recorded in RoStar

*Manager/Supervisor Name: _____ *Telephone/Ext: _____ *HE Number: H E _____ *Date: _____

- If an employee has made any reference to FDV on the leave form, the Manager has discretion to remove it to maintain employee’s confidentiality following discussion with the employee.
- If the paid FDV leave entitlement is exhausted and the employee is utilising other leave entitlements for FDV reasons, the employee is to book the relevant leave type. Processes in relation to confidentiality, evidence and commentary on leave forms is to be consistent with 4.3 to 4.8 of this procedure.
- A checklist for Managers on FDV leave applications is available at Appendix 1.

3. Definitions

<p>Employee</p>	<p>A person who is engaged in an employment contract at the WA Country Health Service whether on a full-time or part-time, permanent, fixed term contract / temporary, casual or sessional basis.</p>
<p>Family and domestic violence (FDV)</p>	<p>The meaning of family and domestic violence is in accordance with the definition in the <u>Restraining Orders Act 1997</u> (new Section 5A) as amended by the <u>Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016</u>.</p> <p>This definition includes behaviour towards a family member that:</p> <ul style="list-style-type: none"> • is physically or sexually abusive; or • is emotionally or psychologically abusive; or • is economically abusive; or • is threatening; or • is coercive; or • in any other way controls or dominates the family or household member and causes that person to feel fear for their safety or wellbeing or that of another person ; or • causes a child to hear or witness or otherwise be exposed to the effects of, such behaviour.

4. Roles and Responsibilities

As per the roles and responsibilities of staff outlined in this procedure.

5. Compliance

5.1 Policy Compliance

Failure to comply with this procedure may constitute a breach of the WA Health Code of Conduct (Code). The Code is part of the [Employment Policy Framework](#) issued pursuant to section 26 of the [Health Services Act 2016](#) (HSA) and is binding on all WACHS staff which for this purpose includes trainees, students, volunteers, researchers, contractors for service (including all visiting health professionals and agency staff) and persons delivering training or education within WACHS.

WACHS staff are reminded that compliance with all policies is mandatory.

5.2 Dispute Resolution

An employee who is not satisfied with the management of their leave requests for FDV reasons or who feels discriminated against because of their disclosure of, experience of, or perceived experience of FDV may lodge a dispute pursuant to the process provided by the dispute settlement procedures of the [relevant industrial instrument](#) as well as the [WA Health Employee Grievance Resolution Policy](#).

6. Records Management

Managers are responsible for ensuring a record of the FDV entitlement utilised by their employees is kept. The FDV Leave Tracking sheet template is to be used for this purpose (see Appendix 2) and forwarded to local Human Resources for confidential storage.

FDV disclosure and leave request records must be managed and stored in a similar way to other sensitive employee-related records such as grievances or disciplinary matters.

Storage and retention of documentation is to be compliant with the [Records Management Policy](#)

Records related to FDV must be marked confidential and access confined to the manager, an employee acting in the manager's position and Human Resources.

Only the employee is to retain a copy of the evidence and information is not to be kept on an employee's personnel file.

7. Evaluation

Monitoring of compliance with this document is to be carried out by WACHS Human Resources, in accordance with any changes to Government policy.

8. Legislation

[Restraining Orders Act 1997](#) (new Section 5A) as amended by the [Restraining Orders and Related Legislation Amendment \(Family Violence\) Act 2016](#).
[Equal Opportunity Act 1984 \(WA\)](#)

9. References

[Premier's Circular 2017/07 – Family and Domestic Violence – Paid Leave and Workplace Support](#)

[No. 05 of 2017 - Family and Domestic Violence - Paid Leave and Workplace Support Implementation Guidelines V1.1](#)

[Restraining Orders Act 1997](#) (new Section 5A) as amended by the [Restraining Orders and Related Legislation Amendment \(Family Violence\) Act 2016](#).
[Equal Opportunity Act 1984 \(WA\)](#)

[Public Sector Commission's Grievance Resolution Standard](#)

10. Standards

[EQuIPNational Standards - 13.10](#)

11. Related Forms

[eL3 Leave Request/Cancellation](#)

12. Related Policy Documents

WACHS [Records Management Policy](#)

13. Related WA Health System Policies

[WA Health Industrial Instruments / Awards and Agreements Library](#)

[WA Health Employee Grievance Resolution Policy](#)

14. Useful Resources

[Employee Assistance Program](#)

[Safe spaces – A guide for public sector agencies and employees](#)

15. Appendices

Appendix 1: [Checklist for Managers](#)

Appendix 2: [FDV Leave Tracking Sheet](#)

**This document can be made available in alternative formats
on request for a person with a disability**

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Appendix 1: Checklist for Managers

Family & Domestic Violence (FDV) Leave Applications

When an employee requests FDV leave, managers are to ensure:

1. leave is booked in RoStar or via HSS leave application forms
2. leave application **does not contain any information of the FDV matter**
3. any evidence produced by the employee is sighted and returned to the employee. Only the employee is to retain a copy of evidence for accessing FDV leave and information **is not to be kept on the employee's personnel file**
4. indicate / tick box in leave form that evidence has been sighted
5. leave is recorded on a tracking sheet (see Appendix 2)
6. tracking sheet is to be stored in a similar way to other sensitive employee-related records such as grievances or disciplinary matters and as per the WACHS Records Management Policy
7. tracking sheet is marked confidential and access confined to the manager, an employee acting in the manager's position and Human Resources
8. an outgoing manager must provide a handover to the new manager with regard to monitoring FDV leave utilisation and ensuring an awareness of the employees' health and wellbeing
9. if an employee moves to a different area within the HSP, the manager must provide a handover to the employee's new manager to maintain awareness of the employee's wellbeing and to monitor the utilisation of FDV leave
10. employees are reminded of the availability of the [Employee Assistance Programme](#) should they need support.

