

## **Domestic Violence Victims' Protection Act 2018 - Shared Agency FAQs**

*Note: This list is intended as a broad FAQ set for agencies providing public advice on Family/Domestic Violence and the Domestic Violence Victims' Protection Act 2018. It is intended for agencies to use to ensure consistent messaging, and can be adjusted as necessary to provide content for staff and websites.*

*Brackets indicate lead drafters/approvers.*

**11 March 2019**

## General

---

- **What is family violence? Is it the same as domestic violence/domestic abuse/family harm?** (JV/Justice)
  - In New Zealand the terms family violence and domestic violence are interchangeable and refer to all forms of violence in family and intimate relationships.
  - Family violence is a range of behaviours that are used to dominate or control a person within an intimate or family relationship. It includes physical, sexual and psychological abuse. Family violence is often a pattern of controlling behaviour made up of a number of acts over time which may seem trivial individually but result in the person feeling afraid and controlled.
- **Does domestic violence/family violence just include physical violence?** ] (JV/Justice)
  - No, family violence takes many forms. It can be physical, psychological (such as intimidation, harassment, damage to property, threats of abuse, and financial or economic abuse), and/or sexual violence. Under new family violence laws, dowry abuse and abuse of pets will become forms of family violence.
- **What relationships are included in the term family violence? What about same sex couples? Ex-partners?** (Shine)
  - NZ law defines family or domestic violence as happening within relationships that include all genders, ex-partners, any family relationship, and also people that ordinarily share a household (flatmates).
- **Key messages about government policy re: family violence** (JV/Justice)
  - One in three women are physically or sexually abused by an intimate partner or ex-partner in their lifetime. Men can also be affected by family and sexual violence. Women are at much higher risk of being seriously injured or killed. People who experience family violence that causes fear or injury are overwhelmingly women and children.
  - Preventing and reducing family violence is one of our greatest opportunities to improve wellbeing. Family violence undermines the physical and mental health, employment, housing, and education of families and whānau, costing New Zealand billions every year.
  - All New Zealanders have a part to play in responding to family violence, understanding the signs, learning to hear victims' voices, and knowing how to respond safely and appropriately.
- **Does the new Act provide support for people who perpetrate of family violence to change their behaviour?** (JV/Justice)
  - The Domestic Violence - Victims' Protection Act 2018 focuses on supporting people affected by domestic violence who are in employment.
  - Under the Domestic Violence - Victims' Protection Act 2018, a person is affected by domestic violence if they are a victim of domestic violence, or there lives (including periodically) with them a child who is a victim of domestic violence.
  - Government already provides funding for specialist non-violence programmes that motivate and support people who perpetrate domestic violence to change their behaviour.
  - The Family Violence Act 2018, which comes in to force on 1 July 2019, provides for improved risk and needs assessments, and referral to a wider range of services for those who perpetrate family violence. The Government is working to build a more integrated

and responsive system, capable of better meeting the needs of all people affected by family violence and sexual violence.

---

## Employee FAQs

---

If you or someone else in immediate danger, call Police on 111.

### *Employment rights*

- **What are my minimum employment rights if I have experienced domestic violence?**  
(Employment/MBIE)

From 1 April 2019, the Domestic Violence – Victims’ Protection Act 2018 gives employees affected by domestic violence the rights to both:

- get paid domestic violence leave
  - ask for short-term flexible working.
- These rights do not apply to people who carry out domestic violence.
    - **Paid domestic violence leave**
      - If you have completed 6 months of continuous employment with your current employer or you meet the ‘hours worked’ test, you are entitled to take up to 10 days of paid domestic violence leave per year, to deal with the effects of domestic violence.
      - Examples include moving home, visiting an organisation that helps with family violence and supporting a child. The leave does not accumulate over time if you do not use your annual entitlement.
    - **Short-term flexible working**
      - Even if you have not completed 6 months of continuous employment with your current employer or meet the ‘hours worked’ test, you have the right to request a short-term change to your working arrangements (short-term flexible working) lasting for up to 2 months, to help you to deal with the effects of domestic violence.
      - Examples of changes in working arrangements include: starting or finishing at a different time, or changing the location or nature of your work. Your employer must deal with a request for short-term flexible working arrangements as soon as possible. They must decide in writing whether or not to approve the request within 10 working days. This right to ask for short-term flexibility is in addition to the right of all employees to request [flexible working arrangements](#), at any time, for a longer term or permanent change. Employers have different obligations for these requests, which are set out in Part 6AA of the Employment Relations Act. Requests for [flexible working arrangements](#) generally relate to [work-life balance](#), but can be made for any reason and at any time, including to deal with the effects of domestic violence.
    - Your employer may ask you to provide proof of domestic violence if you take domestic violence leave or request short-term flexible working arrangements. If they ask for proof, your employer may wait for this proof before approving/declining your request or paying you for your leave.
    - Employers cannot treat you badly – adverse treatment – because you might be affected by domestic violence. This includes when you are applying for a job. If you feel an employer has treated you badly because you are affected by domestic violence, you can talk to the Human Rights Commission or to Employment New Zealand.

- **Who qualifies for these minimum employment rights? (Employment/MBIE)**

- Anyone who is affected by domestic violence if either:
  - they experienced domestic violence themselves
  - or a child who is a victim of domestic violence lives with them, even if it's not all the time.
- Family violence can affect someone for a long time, even after it ends. The law includes the effects of family violence that either:
  - is taking place now
  - took place in the past.

See also: [What is family violence? Is it the same as domestic violence/domestic abuse/family harm](#)

- Qualifying for domestic violence leave depends on length of employment or the 'hours worked' test.
- An employee has the right to ask for a short-term change to their working arrangements (short-term flexible working) lasting for up to 2 months, to help them to deal with the effects of domestic violence **even if** they do not qualify for domestic violence leave.

See also: [What are my minimum employment rights if I have experienced domestic violence?](#)

- **What's the difference between raising an issue with Employment New Zealand or the Human Rights Commission? Can I do both? (Employment/HRC)**

- If you are treated badly by an employer because of your experience of family violence, you can contact Employment New Zealand or the Human Rights Commission. Both offer free, confidential information and mediation.
- The differences are:
  - The Human Rights Commission can help in a wider range of employment situations, including some people who are not generally covered by Employment New Zealand. For example the Human Rights Commission can help voluntary workers, self-employed workers, and in pre-employment situations such as applying for a job.
  - The time limits for raising an issue are also different. You must raise a personal grievance (<https://www.employment.govt.nz/resolving-problems/steps-to-resolve/personal-grievance>) under employment law with your employer within 90 days. Complaints to the Human Rights Commission should be made within 12 months.
- Employees and employers can try to fix their problems during mediation.
- If the issue isn't resolved at mediation, you could bring your case to a tribunal. A tribunal is a specialised body like a court that finds facts, applies the law and makes reasoned, binding decisions.
- The two tribunals are slightly different. The Employment Relations Authority (ERA) deals with employment law. The Human Rights Review Tribunal deals with human rights law.
- When you choose one, you cannot bring your case to the other one.
- If you choose the ERA, you must contact it within:
  - 6 months about short-term flexible working arrangements
  - 12 months about domestic violence leave

## *Domestic Violence Leave*

- **What is the process for requesting leave?** (Employment/MBIE)
  - On or before the day they are meant to work, the employee must tell their employer they want to take it as domestic violence leave as early as they can. If they cannot do that, they must tell their employer as soon as they can.
  - This is the same as an employee telling their employer about sick leave and bereavement leave they want to take.
- **What can I use domestic violence leave for?** (Employment/HRC)
  - You can use leave time as you need to become safe and to deal with the effects of domestic violence. For example, you can use this time to seek help from a family violence support service, move house, or support your children in dealing with the effects of domestic violence. *Refer to “[What organisations can help and how can they help?](#)”*
- **What should I do if my employer refuses to grant me paid domestic violence leave?** (Employment/HRC)
  - Your employer is required by law to provide you with paid domestic violence leave, and this is a minimum standard of employment, assuming you have completed 6 months of continuous employment with your current employer or you meet the ‘hours worked’ test. You could contact Employment New Zealand at [info@employment.govt.nz](mailto:info@employment.govt.nz) or 0800 20 90 20, or raise this with your union.
- **I have used all my domestic violence leave, what can I do if I require more leave?**(Employment/MBIE)
  - Talk to your employer. Your employer may allow you to take annual holidays or leave without pay if you have run out of domestic violence leave. Employers can also provide more than 10 days of paid domestic violence leave, and can decide this on a case-by-case basis.
- **My employer has asked for proof/evidence of me being affected by domestic violence - what do I need to provide?** (Employment/MBIE)
  - The Act does not state what kind of proof would be acceptable. Employers and employees are expected to engage in good faith with one another if proof is requested. That means being open, honest and responsive towards each other. Employers can accept any type of proof that an employee is a person affected by domestic violence.
  - Providing proof may not be a simple task given the nature of family violence. Family Violence often happens behind closed doors, making it difficult to ‘prove’. Ringing police or applying for a Protection Order are usually very big steps for someone who is affected by domestic violence.
  - The employer does not need to pay the employee for domestic violence leave until they get this proof, unless the employee has a ‘reasonable excuse’. An example of a ‘reasonable excuse’ could be that the employee had to move home quickly and has not had time to get proof.
  - This ‘reasonable excuse’ does not apply to short-term flexible working requests.
  - If your employer wants a formal document to prove family violence, examples you can use include a:
    - Letter or email about what’s going on and how it affects you from either a:

- support organisation – for example, a family violence support service or Oranga Tamariki.
- support person – someone who can explain your circumstances and the impact on you
- Report from a doctor or nurse.
- Report from a school.
- A declaration – a letter of evidence witnessed by an authorised person like a justice of the peace under the Oaths and Declarations Act 1957.
- Any court or police documents about the family violence.

#### *Short-term flexible working arrangements*

- **What is the process for requesting flexible working conditions to help me deal with the effects of domestic violence?** (Employment/MBIE)

- All employees are entitled, under Part 6AB of the Employment Relations Act to make a request, or have a request made on their behalf, for a variation in their working arrangements (short-term flexible working) for up to 2 months, to assist them to deal with the effects of domestic violence. Your request needs to be made in writing to your employer and for a period of 2 months or less (see section 69ABC). Your employer is required to respond to the request urgently, and provide a written response within 10 working days at the latest as to whether the request has been approved or refused. If they can reply sooner, they must do so.
- ‘Working arrangements’ mean one or more of the following things that affect how employees do their jobs. These are:
  - hours and days of work
  - where their workplace is
  - where in the workplace they do their job
  - duties at work
  - contact details that they must give to their employer
  - any other employment term that they think needs to change so they can deal with the effects of the domestic violence. Examples are:
    - not having to answer phone calls from the public
    - not sitting near a window
- When an employee writes to their employer asking for short-term flexible working arrangements, they must include certain things. The employee must:
  - give their name
  - give the date they are making the request on
  - say that they are asking for short-term flexible working, as set out in Part 6AB of the Employment Relations Act 2000
  - give the details of what they want to change about their normal working arrangements
  - say how long they want these changes to last – up to 2 months
  - say when they want these changes to start and end

- say how these changes will help them
  - say what changes the employer may need to make to the employer's arrangements if they agree to the employee's request.
- **My employer has asked for proof/evidence of me being affected by domestic violence - what do I need to provide? (Employment)**
  - The law does not state what kind of proof would be acceptable. Employers and employees would be expected to engage in good faith with one another if proof is requested. That means being open, honest and responsive towards each other.
  - If an employer asks for proof that you are affected by domestic violence, they must ask for it within 3 working days of receiving your request. This gives enough time within the 10-working day period for both:
    - you to get proof
    - your employer to respond.
  - If you don't give proof when asked, your employer may refuse your request for short-term flexible working. The employer can wait for proof before deciding what to do. The employer can say no to the request until the employee gives them proof.
  - The 'reasonable excuse' mentioned under the leave provision does not apply to short-term flexible working requests.
  - For examples of proof, see [My employer has asked for proof/evidence of me being affected by domestic violence - what do I need to provide?](#) under Domestic Violence Leave

#### *Family violence and your employment relationship*

- **I feel my employer is restricting my opportunities at work because I am affected by domestic violence. What can I do? (Employment/HRC)**
  - Your employer is not allowed to treat you badly because you might be affected by domestic violence. If you believe that your employer has treated you badly for this reason, you can raise a personal grievance with your employer, and/or make a complaint to the Human Rights Commission.

*See also "[What's the difference between raising an issue with Employment New Zealand or the Human Rights Commission? Can I do both?](#)"*
- **Do I have to disclose that I am a person affected by domestic violence if asked? (Employment/HRC)**
  - No, you do not have to disclose your personal situation to an employer or prospective employer, and it is unlawful for them to treat you adversely as a result of not disclosing. A job interviewer should not ask you if you're affected by domestic violence.
- **Is a prospective employer allowed to refuse me a job because I am affected by domestic violence? (Employment/HRC)**
  - An employer or job interviewer is not allowed to treat you badly because you are affected by domestic violence or they think or know you are. A job interviewer should not ask you if you're affected by domestic violence. Deciding not to give someone a job could count as "adverse treatment". If you believe that you have been refused a job because of your experience of family violence, the Human Rights Commission provides a free and confidential mediation service.

## *Family violence support*

- **I don't feel safe at work and/or home, what can I do?**

- Any threat of violence (both physical and verbal) in the workplace should be taken seriously. It doesn't matter where the threat comes from – an upset customer/client, or a worker's partner – violence is completely unacceptable in the workplace. Violence at work is unacceptable, and your employer or health and safety representative can support you to feel safe at work. (Worksafe)
- Employers have a legal obligation to ensure, so far as is reasonably practicable, the health and safety of workers. For more information about family violence and health and safety at work see the [family violence information](#) on [www.AreYouOk.org](http://www.AreYouOk.org) (Worksafe)
- Anyone can call family violence prevention services at any time, you don't have to be in a crisis to ask for help. Most Family Violence prevention services are free. They are delivered by specialists who understand family violence and how to help keep you safe.(JV/Justice)

- **What organisations can help and how can they help? (JV/Justice)**

- A range of organisations are available to help. It's often a good idea to start by ringing one of the family violence specialist helplines below to talk through your particular situation, and get advice on options and further local services that may be able to support you. These include:

**Family Violence Information Line**      **0800 456 450**      [www.areyouok.org.nz](http://www.areyouok.org.nz)

This helpline is answered seven days a week, from 9am to 11pm. The Line is part of the Ministry of Social Development 'It's not OK' campaign to reduce family violence in New Zealand. The line provides self-help information and connects people to services where appropriate. The website provides information about family violence and where to go for help.

**Women's Refuge**      **0800 743 833**      <https://womensrefuge.org.nz>

Women's Refuge helpline is answered seven days a week, 24 hours a day  
Women's Refuge is a bicultural organisation working with women and children to provide support through advocacy, safety plans, emergency accommodation, and ongoing support for victims and their family members. Women's Refuge also provides training for organisations wanting to learn more about and improve their policies on family violence.

**SHINE**      **0508 744 633**      [www.2shine.org.nz](http://www.2shine.org.nz)

Shine's Helpline is answered every day of the year from 9am to 11pm. The Helpline provides support, information, help with risk assessment and safety planning and referrals to local services. Shine supports adult and child victims – all genders - to become safe. Shine also works with men who have perpetrated family violence to motivate and support behaviour change. Shine provides a range of domestic violence training programmes. Shine's DVFREE programme, provides policy consultation and workplace domestic violence training.

**SHAKTI**      **0800 742 584**

Shakti is a specialist provider of support services for women, children and families of Asian, African and Middle Eastern origin.

**Safe-to-talk****0800 044 334**

Safe-to-talk is answered 24 hours a day, 7 days a week. You can contact a trained specialist by phone or web chat. Safe-to-talk is a free, confidential, and anonymous helpline for people affected by sexual violence. They can answer your questions, give you information about sexual harm, and refer you to specialists in your area. They can also provide information about how to help a friend or family member.

*Confidentiality*

- **Who will get to see what information about my domestic violence related situation that I provide to my employer?** (Employment/MBIE)
    - Employers are required to protect the confidentiality and privacy of their employees' personal information. Employers are also required to have your agreement to share any of your personal information (for example with a family violence service provider). However, under the Privacy Act, information may be shared in order to address a serious threat to someone's health or safety, or to public safety.
  - **Who will be able to see that I have taken domestic violence leave?** (Employment)
    - Employers must protect the confidentiality and privacy of their employees' personal information. This includes information about employees taking domestic violence leave or other forms of leave.
    - Some people within the workplace may need to see this personal information, such as workers dealing with finance. If a Labour Inspector or anyone else needs to see the employer's holiday and leave records to do their job, then they may be able to see information about the kinds of leave that are taken. Anyone who can see this information to do their job must also follow the law on privacy and confidentiality.
  - **Will my contact with Employment New Zealand/Human Rights Commission be kept confidential?** (Employment/HRC)
    - Yes, Employment New Zealand and the Human Rights Commission must also maintain your privacy and confidentiality. However, under the Privacy Act, information may be shared to address a serious threat to someone's health or safety.
    - More information about Employment New Zealand's privacy statements is available on the [Employment New Zealand website](#).
  - **I think family violence is something that should be handled within the family network within our culture and religion, why do other agencies need to become involved?** (JV/Justice)
    - Family violence is not a private matter; it's a crime. It is against the law to hurt, intimidate, threaten and control other people. Family violence is often inter-generational learned behaviour, and specialist help and support is needed – both to help victims become and stay safe, and to help perpetrators break that cycle and be accountable for their actions.
-

## Employer FAQs

### *Employment obligations*

- **What is the process for responding to a domestic violence leave or short-term flexible working request?** (Employment/MBIE)
  - If an employee who is a person affected by domestic violence requests a short-term variation of their working arrangements (for 2 months or less), then you must adhere to the requirements of Part 6AB of the Employment Relations Act. You have 10 working days within which to respond to a request, starting from the day you receive the request. If you can reply sooner, you must do. If you wish to ask the employee to provide proof, then you must do so within the first 3 working days, in order to give them time to obtain and provide the proof.
  - Your response to the request must be in writing, and if you refuse the request, you must explain the reason why the request cannot be accommodated reasonably on one or more of the non-accommodation grounds.
  - Whether the employer says yes or no to the request, they must give their employee information about suitable support services that can help with domestic violence. They can do this when they give their written answer to the employee's request, or before. Providing this information is part of the employer's legal obligations.
  - See [www.employment.govt.nz/domestic-violence](http://www.employment.govt.nz/domestic-violence)
  - See also **What is the process for requesting flexible working conditions to help me deal with the effects of domestic violence?**
- **What kinds of records do I need to keep?** (Employment/MBIE)
  - You must keep wage and time, and holidays and leave records that comply with the Employment Relations Act 2000 and the Holidays Act 2003. In particular, you must be able to show that you've correctly given your employees all minimum employment entitlements such as the minimum wage and leave. See [www.employment.govt.nz/domestic-violence](http://www.employment.govt.nz/domestic-violence)
- **What can I do if an employee has used all their domestic violence leave, but they require more leave?** (Employment/MBIE)
  - While you cannot provide less than the legal minimum of 10 days of domestic violence leave per year, you can allow your employee to take more paid domestic violence leave. You may consider this on a case-by-case basis, depending on what is right for the specific situation. If you do not wish to provide more paid domestic violence leave, you might wish to suggest your employee use some of their paid annual leave or take leave without pay. See [www.employment.govt.nz/domestic-violence](http://www.employment.govt.nz/domestic-violence)
- **Can I ask for proof/evidence that my employee is a person affected by domestic violence?** (Employment/MBIE)
  - You are able to request proof that the employee is a person affected by domestic violence.
  - The law does not specify what proof is acceptable, but your decision to accept proof should be based on the principle of good faith. That means being open, honest and responsive towards each other.
  - It's important to understand that most people who are affected by domestic violence don't have what many would understand as 'proof' of their experience of domestic violence. Ringing police or applying for a Protection Order are usually very big and scary

steps for a person. People affected by domestic violence are often afraid to tell others about the abuse because they fear not being believed, or that people will minimise their experience. Requesting proof may be a barrier to employees requesting leave and flexible working conditions and getting the help that they need.

- If you do request proof, it is helpful to accept as one form of proof a statement from a domestic violence specialist agency.

See [\*\*My employer has asked for proof/evidence of me being affected by domestic violence - what do I need to provide?\*\*](#)

- The employer does not need to pay the employee for domestic violence leave until they get this proof, unless the employee has a 'reasonable excuse'. An example of a 'reasonable excuse' could be that the employee had to move home quickly and has not had time to get proof.
- This 'reasonable excuse' does not apply to short-term flexible working requests.
- See [www.employment.govt.nz/domestic-violence](http://www.employment.govt.nz/domestic-violence)
- **Can an employee request domestic violence leave or short-term flexible working provisions to deal with the effects of historic domestic violence?** (Employment)
  - The law applies to employees affected by domestic violence regardless of when the domestic violence occurred. The effects of domestic violence can be long term, so there is no requirement for the domestic violence to have occurred recently. The law does not apply to those who commit domestic violence.
  - See [www.employment.govt.nz/domestic-violence](http://www.employment.govt.nz/domestic-violence)

#### *Confidentiality*

- **Do I have to keep the information provided to me confidential?** (all)
  - Employers can collect personal information about employees for valid work purposes only. They must protect the privacy of personal information and not share or use it for any other purpose.
  - The only exception is that when there is a serious threat to someone's life or health, you can share information to address this risk. You should make every effort to talk to the employee about sharing their information, and to tell them before it happens so that the action does not put them at greater risk.
  - Employees can ask their employers for access to all the information their employer has about them. The employer has to either give them access or tell them why they can't see it. They must do this as soon as possible and within 20 working days (or ask for an extension).
  - Employment – refer to general Employee Privacy text on the Employment New Zealand website, or the Privacy Commission's [Guide to Privacy at Work](#) on their website.

#### *Supporting people affected by family violence*

- **How should I support a family violence survivor?** (JV/Justice)
  - The first critical step to support someone who discloses violence is to believe what they tell you and listen without judgement. Once trust is established, encourage them to connect with a specialist agency and find out how what steps they can take to be safe at work and outside of work.
  - There are many reasons why people stay trapped in abusive relationships. It can take a long time for a person to recognise the abuse and that it's not their fault. Threats of

violence and threats to kill are more likely to be made once someone says they are leaving or does leave, making this a very dangerous time. Employers can provide a safe and supportive environment away from the violence so specialist help can be accessed.

- Employers can provide support for employees impacted by family violence and refer them to specialist services with their permission, or crisis services if they are in immediate danger. Employers should not get involved in trying to solve an individual's situation and can always phone one of the helpline's for advice about what to say or do.
- Employers can do more than what is required by law, to ensure that their workplace is safe and supportive for staff who experience domestic violence. Here are some ideas:
  - A workplace policy is a good first step to provide a safe and appropriate response to employees affected by family violence. The policy should set out the organisation's commitment to supporting staff and how this will be managed. (business.govt.nz has a [Family Violence Policy builder tool](#) available).
  - Shine's free DVFREE Guidelines on Policy and Procedures (available at [www.dvfree.org.nz](http://www.dvfree.org.nz)) provide practical recommendations and background information on all of these points, including a comprehensive workplace safety planning checklist, to help employers create a holistic, sustainable, best practice workplace response to domestic violence.
  - The next step for employers is to bring the policy to life by establishing how employees who experience domestic violence can and will be supported. For example:
    - Appoint appropriate staff as 'first responders' who can provide support and coordinate workplace safety plans, and prepare them for their role with specialist training (there is more information and advice about this step in the DVFREE Guidelines)
    - Provide easy-to-access information for all staff about how to contact a 'first responder' and how they can help, as well as how to access help from specialists in the community to become safe outside of work
    - Provide specialist training for all of your managers
    - Help all staff to have a better understanding of domestic violence and how to help someone they know. Shine offers a free online learning module at [www.2shine.org.nz](http://www.2shine.org.nz). It's also helpful to provide statements from your organisation's leadership, and other awareness raising activities.
- **How do I know if someone is experiencing family violence?** (JV/Justice) There may be many different signs that a person is experiencing family violence. If you feel worried about someone and concerned that they are being hurt – physically or in other ways – it's important to take that seriously.
- Some common signs are becoming withdrawn or a noticeable change in personality; being late or taking sick leave often; being distracted, anxious, or jumpy at work and receiving messages or phone calls that seem to be upsetting; never joining in work social events; having no money to spend on themselves.
- People experiencing family violence worry they will not be believed, or will be judged or blamed for the violence that is happening to them. A policy helps everyone to know what to do and what not to do when a colleague discloses violence. The *It's Not OK* website has lots of information about how to help and the

different ways someone might ask for help. It's OK to phone helplines for advice as well.

- **Should I notify the Police if I know someone is experiencing family violence?** (JV/Justice)
    - You should call Police if you believe someone is in danger or is being hurt right now. If it is not emergency situation, ringing police without permission from the affected person when it is NOT an emergency can undermine that person's trust in you and have unintended consequences. If it is not an emergency situation, it is better to offer your help and support directly to the person and let them know about specialist community organisations that can help. (See [What Organisations Can Help?](#))
  - **Should we be referring people to EAP services?** (JV/Justice)
    - It is better to refer people to family violence specialist services than EAP. Referring an employee to EAP may give the employee a sense that domestic violence is a result of their own behaviour. Also, family violence training is not mandatory for EAP counsellors and some may not be able to respond safely and appropriately. Shine's Guidelines on Policy and Procedures provide further suggestion for employers around negotiating agreements with their EAP providers to specify how they will respond to family violence.
  - **Can I ask a job applicant if they are a person affected by domestic violence in a job interview?** (Employment/HRC)
    - No. It is illegal to treat an employee or job applicant badly because they might be affected by domestic violence. You therefore should not ask a job applicant if they are affected by domestic violence. If you do so and then do not offer the applicant the job (or if you treat them adversely in other ways) because of their experience of domestic violence, they could complain to the Human Rights Commission.
-

## General backpocket content for myth-busting

---

- **Cost to business of providing additional leave**
  - It is extremely difficult for people affected by family violence to ask for help.
  - They sometimes feel shame and often believe the violence is their fault. They often fear no-one will believe them. Or they fear that telling someone will get back to their abuser or in some other way put them in greater danger.
  - By December 2016, over 15% of all paid employees in Australia – 1.6 million people – had entitlement to paid domestic violence leave. Research by the Centre for Future Work found that uptake was only .022-.31% and that average leave periods were rarely longer than a week.
- **Risk of false claims (JV/Justice)**
  - It is extremely rare for people to make false claims in order to access domestic violence leave, because of the stigma associated with domestic violence.
  - While it's conceivable for many people to fake illness in order to request a day of sick leave, most people cannot conceive of faking an experience of domestic violence to access domestic violence leave. For most people, this is as hard to imagine doing as lying to say they have cancer in order to get sympathy.
- **Proof**
  - **“Why doesn't my staff member have proof?” (JV/Justice)**
    - Family Violence often happens behind closed doors, making it notoriously difficult to 'prove'.
    - Ringing police or applying for a Protection Order are usually very big and scary steps for a person. People affected by family violence are often afraid to tell people about the abuse because they fear not being believed, or that people will minimise their experience.
    - It's important to provide specialist training for 'first responders' to help them be able to respond safely and appropriately. If you don't have 'first responders' in your workplace, at minimum, you should refer any employee disclosing domestic violence to a specialist service for support.
  - **Seeking proof (Employment/MBIE)**
    - Employees may be asked to provide proof that they are affected by domestic violence as part of a request for domestic violence leave taken or short-term flexible working arrangements.
    - The Act does not state what kind of proof would be acceptable. Employers and employees would be expected to engage in good faith with one another if proof is requested. That means being open, honest and responsive towards each other.
    - Employers can accept any type of proof that an employee is a person affected by domestic violence.
    - Providing proof may not be a simple task given the nature of family violence. Family Violence often happens behind closed doors, making it difficult to 'prove'. Ringing police or applying for a Protection Order are usually very big steps for a person.
    - If your employer wants a formal document to prove family violence, examples you can use include a:

- Letter or email about what's going on and how it affects you from either a:
    - support organisation – for example, a family violence support service or Oranga Tamariki.
    - support person – someone who can explain your circumstances and the impact on you.
  - Report from a doctor or nurse.
  - Report from a school.
  - A declaration – a letter of evidence witnessed by an authorised person like a justice of the peace under the Oaths and Declarations Act 1957.
  - Any court or police documents about the family violence.
  - The employer does not need to pay the employee for domestic violence leave until they get the proof they have requested, unless the employee has a 'reasonable excuse'. An example of a 'reasonable excuse' could be that the employee had to move home quickly and has not had time to get proof.
  - This 'reasonable excuse' does not apply to short-term flexible working requests.
  - **Family violence policies and the benefits for business** (JV/Justice + bus.govt)
    - If violence is going on at home, an employee may struggle to complete tasks on time and maintain usual levels of productivity. This can have a negative impact on their co-workers. Employers who provide appropriate support when employees need it will be rewarded with higher productivity and loyalty. Where employers are supportive, there will be a range of benefits to the workplace, including retention of staff who might otherwise have left.
  - **Can I request domestic violence leave or flexible working provisions to deal with the effects of historic domestic violence?** (Employment/MBIE)
    - Yes. The Act does not specify a timeframe for when the domestic violence occurred.
-