

Rights for employees affected by domestic violence





This brochure has been produced by Employment New Zealand at the Ministry of Business, Innovation and Employment, working with the Human Rights Commission and Shine.

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New Zealand Government

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on Family Violence and Sexual Violence

Rights for employees affected by domestic violence

From 1 April 2019, people affected by domestic violence get more legal protections at work. The Domestic Violence – Victims’ Protection Act gives new rights to employees.

If you’re affected by domestic violence, the Act gives you the rights to:

- › get paid domestic violence leave
- › ask for short-term flexible working
- › not be treated adversely at work because you might have experienced domestic violence.

You have these rights even if the domestic violence happened in the past.

These rights do not apply to people who carry out domestic violence. In other words, people who are violent or abusive to someone they’re in a family or domestic relationship with.

Domestic violence is also known as family violence, and it’s not just physical violence. It can take many forms.

What is domestic violence?

If you are being abused by a partner, ex-partner, someone in your family or whānau, or by a flatmate, then you are experiencing domestic violence. This is also called family violence. This can happen to people of any gender, and within same- or different-gender couples. Someone who carries out family violence might not live with you.

‘Violence’ can be physical, sexual or psychological abuse. It’s also when someone is bullying or threatening, or tries to control what you do or think. Some examples are:

- › intimidation – scaring you into doing something or making you or your family feel unsafe by, for example, following or watching you

- › harassment – again and again acting in a way that upsets you or your family, or getting in touch with you when you don't want them to
- › damaging your things
- › threatening to abuse you
- › financial or economic abuse – taking your money, stopping you from working or going to school or college
- › emotional or psychological abuse – putting you down, always criticising you or calling you names, playing mind games, making you think you're going crazy.

If someone who is close to you – or who was close to you – is abusing you, it can make you feel like that person is controlling your life. It can make you lose your confidence and feel afraid. You can feel the effects of family violence for a long time, even after the violence has stopped.

Where to get help

If you or someone else is in danger right now, call the police on 111.

If you think you or someone you know might be affected by domestic violence, you're not alone – you can get help. Specialist organisations can help you understand what's going on in your relationship and give emotional support. They can give you information about what you can do and tell you about services near you that might be able to support you.

It's often a good idea to start by ringing a family violence specialist helpline or visiting the website of a specialist support organisation.

Family Violence Information Line

0800 456 450

open every day, from 9am to 11pm

www.areyouok.org.nz

This helpline is part of the 'It's not OK' campaign to reduce family violence in New Zealand, and is run by the Ministry of Social Development. The line gives self-help information and connects people to services where it's needed. The website gives information about family violence and where to go for help.

Women's Refuge

0800 743 833

open every day, 24 hours a day

www.womensrefuge.org.nz

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 gives training to organisations wanting to learn more about and improve their policies on family violence.

SHINE

0508 744 633

open every day, 9am to 11pm

www.2shine.org.nz

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 offers policy consultation and workplace domestic violence training.

Safe-to-talk

0800 044 344

open every day, 24 hours a day

Safe-to-talk is a free, confidential and anonymous helpline for people affected by sexual violence. You can contact a trained specialist by phone or web chat. 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.

Your domestic violence rights at work

The law says that if you're an employee affected by domestic violence, you have the right to:

1. take up to 10 days of paid domestic violence leave each year – this is separate from annual leave, sick leave and bereavement leave
2. ask for short-term flexible working arrangements – lasting up to two months
3. not be treated adversely in the workplace because you might have experienced domestic violence.

You have these rights even if the domestic violence happened in the past.

See **What to do if your employer isn't following the law.**

Some employers do more than the law says they have to for employees who are affected by domestic violence. Talk to your manager or HR department to find out what support your employer offers.

This law does not apply to people who carry out domestic violence. In other words, people who are violent or abusive to someone they're in a family or domestic relationship with.

1. Paid domestic violence leave

If you're an employee, you have the right to up to 10 days' paid domestic violence leave each year if you need it. This leave is paid time off work to help you deal with the effects of domestic violence. For example, you might need to get help from a family violence support service, move house, go to court or support your children.

You can also take this kind of leave to support a child who has experienced domestic violence, as long as they live with you some of the time.

The law says that you can take domestic violence leave after you've worked for your employer for six months continuously or pass the 'hours worked' test. Some employers offer domestic violence leave sooner. Check your employer's policy on leave or domestic violence, or ask your manager or HR department.

See more about qualifying for domestic violence leave at:
employment.govt.nz

Taking domestic violence leave

On or before the day you're meant to work, you must tell your employer you want to take domestic violence leave as early as you can. If you cannot do that, you must tell your employer as soon as you can.

This is the same as when you tell your employer you want to take sick leave or bereavement leave.

See more about taking domestic violence leave at:
[employment.govt.nz/domestic-violence](https://www.employment.govt.nz/domestic-violence)

Proof of domestic violence

When you take domestic violence leave, your employer can ask for proof that you're affected by domestic violence.

See your employer's policy on leave or domestic violence to find out if they might want proof and what kind of proof they might want.

See **Proof of domestic violence**.

2. Short-term flexible working

If you're an employee, you have the right to ask for short-term flexible working arrangements to help you deal with the effects of domestic violence. These arrangements can last for up to two months.

You have the right to ask for this kind of flexible working:

- › at any time
- › even if the domestic violence took place before you started working for your employer.

Your employer must answer you in writing within 10 working days at the latest. If they can respond sooner, they must do so. Let your employer know if you need to change your working arrangements to stay safe so they know if they should decide quicker.

This new right is on top of your right to ask for flexible working arrangements at any time and for any reason. This other flexible working arrangement can be longer than two months or a lasting change. Your employer must deal with these requests differently and has one month to respond.

Search for 'flexible working' at **www.employment.govt.nz**

Asking for short-term flexible working

You must ask your employer in writing for changes to your normal working arrangements. Someone else can also ask for short-term flexible working arrangements for you.

‘Working arrangements’ mean certain things that affect how you do your job. For example, what hours and days you work, where you work, and what you do at work.

When you, or someone else, writes to your employer asking for changes to your normal working arrangements, you must include certain things. These are:

- › your name and the date you make the request
- › that you’re asking for short-term flexible working arrangements, as set out in Part 6AB of the Employment Relations Act 2000
- › details of what you want to change about your normal working arrangements
- › how long you want the changes for – up to two months
- › when you want the changes to start and finish
- › how these changes will help you
- › what changes your employer might need to make to their arrangements if they agree to your request.

See more about asking for short-term flexible working at:
employment.govt.nz

Proof of domestic violence

If you ask for short-term flexible working, your employer can ask for proof that you’re affected by domestic violence to help them decide yes or no. They must ask within three working days of getting your request.

See your employer’s policy on flexible working or domestic violence to find out if they might want proof and what kind of proof they might want.

See more about proof of domestic violence at:
employment.govt.nz/domestic-violence

See more about asking for short-term flexible working at:
employment.govt.nz/domestic-violence

See **Proof of domestic violence**

What your employer must do

Your employer must tell you in writing if they agree to or refuse your request as soon as possible. At the latest, they must tell you within 10 working days of your request for short-term flexible working. If they can tell you sooner, they must do so.

Your employer must give you information about suitable support services that can help with domestic violence. They can do this when they give you their written answer, or before.

Refusing a request

If your employer refuses to give you the short-term flexible working arrangements you've asked for, they must explain why.

Your employer can **only** refuse a request if they:

- › didn't get the proof they asked you for within 10 working days of getting your request
- › cannot change your working arrangements because of at least one of the 'non-accommodation grounds' set out in the law.

Examples of 'non-accommodation grounds' are that they:

- › cannot reorganise the work among other workers
- › cannot recruit more workers
- › think there is not enough work for you to do during the times you've asked to work.

Search for 'non-accommodation grounds' at employment.govt.nz

3. Adverse treatment at work

From 1 April 2019, employers must not treat you adversely – badly or unfairly – because of your experience of domestic violence. The law about this is set out in the Employment Relations Act and the Human Rights Act.

If a child who has experienced domestic violence lives with you, even if it's not all the time, you're also covered by the law. It doesn't matter when the domestic violence took place.

You don't have to tell your employer if you're affected by domestic violence. This also includes domestic violence that happened in the past.

If you're at a job interview, the interviewer should not ask you if you're affected by domestic violence. If they do ask, you don't have to say.

'Adverse' treatment is also called discrimination. It includes being fired or forced to quit, being offered worse working conditions, or missing out on a promotion or other chance.

If you're treated adversely or discriminated against because you might be affected by domestic violence, this is against the law.

See more about adverse treatment at work at:
employment.govt.nz/resolving-problems

Proof of domestic violence

If you take domestic violence leave or ask for short-term flexible working arrangements, your employer can ask for proof. This proof should show you're affected by domestic violence.

The law does not state what kind of proof your employer can accept.

If your employer asks for proof, you should both act in good faith. That means being open, honest and quick to respond.

Your employer can accept any type of proof that you're affected by domestic violence.

Getting proof

Getting proof may not be simple, given the nature of domestic violence. Domestic violence often takes place behind closed doors, making it hard to 'prove'. Ringing police or applying for a protection order are usually very big steps for someone affected by domestic violence.

Examples of proof

- › Letter or email about what's going on and how it affects the employee from either a:
 - support organisation – for example, a domestic violence support service or Oranga Tamariki.
 - support person.
- › 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 domestic violence.

Proof for domestic violence leave

If your employer asks for proof but doesn't get it, they don't have to pay you for domestic violence leave until they get proof, unless you have a 'reasonable excuse'.

An example of a 'reasonable excuse' could be that you've had to move home quickly and haven't had time to get proof.

Proof for short-term flexible working

If your employer wants proof, they must ask for it within three working days of getting your request for short-term flexible working arrangements. This is because your employer must reply in writing to your request within 10 working days or sooner.

If you don't give proof when asked, your employer may refuse your request for short-term flexible working. Your employer can also say no to your request until you give them proof.

See more about proof of domestic violence at [employment.govt.nz/domestic-violence](https://www.employment.govt.nz/domestic-violence)

Keeping your personal information private and confidential

Your employer must protect your personal information. This includes information about any domestic violence leave or other forms of leave.

Some people at work may need to see your personal information to do their job. This personal information might include if you've taken domestic violence leave or you've asked for short-term flexible working. An example of someone who might need to see your personal information to do their job is an employee who works out your wages or salary. If you want to know who else at work might see, talk to your manager or HR department.

Anyone who can see any of your personal information to do their job must follow the law on privacy and confidentiality. This includes workers at Employment New Zealand and the Human Rights Commission.

Sharing information about you

Your employer must ask you first if they want to share any of your personal information.

There is only one time your employer doesn't have to ask you first to give out your personal information. This is to protect someone's life or health, or public safety. Your employer could be worried about you or other people, like other employees or members of your family. Sharing your information for this reason is allowed in the Privacy Act.

For example, a manager finds out that an employee's partner has threatened to kill them and has said they're on the way to where they work. The manager can ring the police and give them information to protect the employee and other workers.

What to do if your employer isn't following the law

If you feel comfortable, you can talk to your employer. The law is new so they might not know what it says about domestic violence leave, short-term flexible working or support for people affected by domestic violence.

How to complain

There are services you can contact if you have problems getting your rights. Problems include your employer:

- › refusing domestic violence leave
- › not paying you for domestic violence leave
- › not answering your request for short-term flexible working within the 10 working days limit
- › refusing your request without using the right 'non-accommodation grounds'
- › treating you adversely because they think you are affected by domestic violence.

See more about getting help at [employment.govt.nz/domestic-violence](https://www.employment.govt.nz/domestic-violence)

Employment New Zealand

You can complain to Employment New Zealand if you have problems with domestic violence leave or asking for short-term flexible working.

If you think you have been treated adversely – badly or unfairly – you must first raise a personal grievance with your employer. You must raise a personal grievance within 90 days.

Search for ‘personal grievances’ at www.employment.govt.nz

Search for ‘resolving problems’ at www.employment.govt.nz

Human Rights Commission

The Human Rights Commission can help with adverse treatment in a wider range of employment situations, including some people who are not usually covered by Employment New Zealand. For example, they cover:

- › voluntary workers
- › self-employed workers
- › pre-employment situations, like applying for a job
- › the time you’re an employee as well.

See more about getting help with your human rights at hrc.co.nz

Free, confidential information

You can get free, confidential information and mediation from Employment Services and the Human Rights Commission. Employment Services deals with employment law while the Human Rights Commission deals with human rights law.

If you’re not sure which one to speak to, both services can give you more information when you talk to them.

Employment New Zealand

Call: 0800 20 90 20

Email: info@employment.govt.nz

Visit: www.employment.govt.nz

Human Rights Commission

Call: 0800 496 877

Email: infoline@hrc.co.nz

Visit: www.hrc.co.nz

Privacy Commissioner

If you want to complain about how your employer has handled your personal information, you can go to the Privacy Commissioner.

Visit www.privacy.org.nz

