



## **ASU Submission**

Senate Standing Committee  
Education & Employment Committees

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

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<b>Submitter:</b>	Emeline Gaske, Assistant National Secretary
<b>Organisation:</b>	Australian Services Union
<b>Address:</b>	116 Queensberry Street Carlton South, Victoria, 3053
<b>Phone:</b>	03 9342 1400
<b>Fax:</b>	03 9342 1499
<b>Email:</b>	<a href="mailto:egaske@asu.asn.au">egaske@asu.asn.au</a>
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## The ASU

The Australian Services Union ('ASU') is one of Australia's largest unions, representing approximately 135,000 members in the private, public and community sectors.

Of specific relevance to this Inquiry, the ASU is the largest union of workers in the disability, social and community services sector. They support people experiencing or at the risk of experiencing crisis, disadvantage, social dislocation or marginalisation. Our members in the community sector are at the frontline of addressing the crisis of violence against women.

## Paid family and domestic violence leave must be a universal entitlement

Rosie Batty was right: it doesn't matter how nice your house is: Domestic violence can happen to anyone. We therefore support the key feature of the Bill, which legislates 10 days paid domestic violence leave as a universal entitlement in the National Employment Standards (NES).

Domestic violence is now recognised to be a serious and widespread problem in Australia, with enormous individual and community impacts and social costs. Domestic violence may include physical, sexual, financial, emotional, or psychological abuse. Emotional or psychological abuse may include a range of controlling behaviours such as the use of verbal threats, enforced isolation from family and friends, restrictions on finances and public or private humiliation.<sup>1</sup> Family violence is usually a broader term referring to violence between family members as well as intimate partners. It is often the preferred term used in the context of violence experienced in First Nations communities.<sup>2</sup> The most pervasive form of family and domestic violence, including sexual assault is perpetrated by an intimate partner or someone other than a partner.<sup>3</sup> While some groups of women are more at risk of experiencing domestic, family or sexual violence than others, these forms of violence occur in all Australian communities and across all socio-economic groups. The underlying causes are complex and not fully understood, but there is general agreement that gender inequality is a key determinant of violence against women.<sup>4</sup>

It is not possible to measure the true extent of the problem because most incidents of domestic, family and sexual violence go unreported. However, prevalence estimates show that domestic, family and sexual violence in Australia is widespread and that the majority of those who experience these forms of violence are women.<sup>5</sup> The 2016 ABS Personal Safety Survey provides detailed information about men's and women's experience of current and previous partner violence, lifetime experience of stalking, physical and sexual abuse before the age of 15, emotional abuse and general feelings of safety. The data makes clear that the experience of family and domestic violence has not diminished over time and indeed is both pernicious and pervasive across all sectors of the population. In its findings, the ABS Personal Safety Survey<sup>6</sup> estimated that:

- 2.2 million Australians have experienced physical and/or sexual violence from a partner
- 3.6 million Australians have experienced emotional abuse from a partner.

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<sup>1</sup> ABS Personal Safety Survey Australia 2016

<sup>2</sup> *ibid*

<sup>3</sup> Australian Government National plan to reduce violence against women and their children 2010 – 2022 Department of Social Services (DSS)

<sup>4</sup> L Wall, gender equality and violence against women: What's the connection? Australian Centre for the Study of Sexual Assault Research Summary June 2014 and A Powell rape Culture: Why our community attitudes to sexual violence matter in *The Conversation* September 2014

<sup>5</sup> ANROWS, Key statistics on violence against women ANROWS Fast Facts

<sup>6</sup> <https://www.aihw.gov.au/reports-data/behaviours-risk-factors/domestic-violence/overview>

- About 2.2 million Australians have experienced sexual violence since the age of 15.
- One in six women and one in 16 men had experienced physical or sexual violence by a current or previous cohabiting partner
- On average, 20 people aged 15 and over were hospitalised every day in 2019-21 for an injury due to assault by a partner or other family member
- More than 116,000 people were assisted by specialist homelessness services in 2020 – 21 had experienced family or domestic violence
- Police recorded sexual assault rates increased between 2010 – 2020
- More than two-thirds (68%) of mothers who had children in their care when they experienced violence from their previous partner said their children had seen or heard the violence <sup>7</sup>
- Almost 2 in 5 (37% or 82) recorded murders were related to family and domestic violence <sup>8</sup>
- 19 per cent of women and 8 per cent of men have experienced an episode of stalking during their lifetime.<sup>9</sup>

#### Access to paid family and domestic violence leave:

1. **must be paid at workers' *actual* rate of pay, rather than base rate**
2. **must be an 'upfront' annual entitlement, rather than progressively accrued**
3. **must be a minimum of ten days, regardless of the nature of engagement**
4. **must *not* be conditional upon use of other entitlements**

Family and domestic violence leave entitlements must be sufficiently generous to allow people experiencing violence to envisage the possibility of living without violence, to make plans to leave violence, and to remain away from that violence, without losing their economic security or their connection with their employer.

#### Actual Rate of Pay

Without a secure income, people cannot make practical plans to leave or remain away from a violent relationship. It is common for a person, especially those with children, to remain in a violent relationship because they believe they cannot support themselves and their children alone. While Centrelink payments are available, these provide for a standard of living below the poverty line. We must be frank: the choice to see your children live below the poverty line, with the inevitable stigma is not a choice that many will make. The choice to live in poverty and homelessness or endure violence is not a choice that any parent should be forced to make.

Consequently, it is essential that family and domestic violence leave fully replaces an employee's income for the period of leave. This includes:

- weekend, shift, and public holiday penalty rates;
- overtime;
- allowances;
- bonuses and incentive payments; and
- any other amounts paid by the employer.

Evidence recently presented to the 2021 South Australian Working Women's Centre Report on Precarious Work<sup>10</sup> supports other Australian and international research demonstrating that women who experience domestic violence are also more likely to be employed casually or part time. The

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<sup>7</sup> ABS 2017

<sup>8</sup> ABS 7 July 2022

<sup>9</sup> ABS Personal Safety Survey Australia 2005 op.cit.

<sup>10</sup><https://wwcsa.org.au/resources/the-protective-power-of-job-security/>

South Australian Inquiry reported that being employed precariously makes it more difficult to resist gendered violence, referring to well established evidence that poverty, or economic dependence [on the perpetrator] often tied to insecure work, can stop a [woman] from leaving a violent relationship. Results presented in the report indicate that many women believe that taking time off work because of family and domestic violence would negatively impact their job security. The same report refers to findings that 'job security provides strengthened economic independence, which can be linked to the protection of workers from gendered violence and ... reduc[ing] the prevalence of domestic violence.'<sup>11</sup>

The same report refers to research indicating that the financial security afforded by secure employment allows women to escape violent relationships without sacrificing their homes and standards of living. This sentiment is echoed by Julie Kun, CEO of WIRE Women's Services, who states that 'without paid leave entitlements [women] have to choose between being safe and being poor. The Victorian Royal Commission into Family and Domestic Violence also received submissions to this point, stating 'financial security is a significant protective factor in victims gaining freedom from abusive partners'. Improving the economic rights of women can prevent violence by ensuring that women can avoid dependence on violent men. Secure employment also improves outcomes in the workplace by making workers feel safer to report violence and increasing self-determination.<sup>12</sup> Just as there is a clear link between insecure work and gendered violence, there is also a positive link between job security and greater independence, safety from violence and pathways out of violent situations.

Women escaping and experiencing domestic violence are often the most disadvantaged and vulnerable in the labour market. Australian and international research demonstrates unequivocally that gaining and maintaining paid work is pivotal in creating a secure financial future for both those who have experienced domestic violence and their families. However, participation in employment can be seriously undermined by ongoing abuse and its subsequent effects. For example, Australian researchers found that some women had not been allowed to work while in a violent relationship and found it difficult to enter or re-enter the workforce post separation. These findings reflect international research, which highlights how domestic violence not only acts as a barrier to education, training and employment but can also escalate when survivors seek or participate in such activities. In order to maintain control over their partners, abusers may interfere with women's efforts to become self-sufficient.<sup>13</sup> Women affected by domestic violence are also more likely to have a disrupted work history and to work casually or part-time than women with no experience of violence.

Grace is a 24 year old disability support worker. She has a four year old daughter. She is employed by two NDIS providers and has permanent part time work with one and casual employment with the other. Grace has been living with violence since the birth of her daughter, when her partner forced her to return to work as soon as her employers would allow her to do so, when the baby was 12 weeks old. Grace says that the first time her partner hit her, she wanted to leave, but had no savings and no one to support her. She feared that her partner would hurt the baby and so has been frequently forced to take time off work when she could not get safe childcare. Grace has tried to find secure employment but find this very difficult when she has to take time off to protect her baby. It has been hard to accrue leave in a part time position and she cannot accrue leave at all in her casual job. Grace

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<sup>11</sup> See Beth Goldblatt, 'Violence against women and social and economic rights: deepening the connections', *University of Technology Sydney Law Research Series*, 2019 and 'Safe Spaces: A study on paid family/domestic violence leave,' *Women's Agenda & Good Shepherd*, 2017. See also Ludo McFerran, *National Violence and the Workplace Survey: Domestic Violence Workplace Rights and Entitlements Project* (2011)

<sup>12</sup> Summary and Recommendations, Victorian Royal Commission into Family and Domestic Violence 2016

<sup>13</sup> ABS Personal Safety Survey Australia 2005 and also L McKean *Addressing domestic violence as a barrier to work* Centre for Impact Research, Chicago 2004 and also J Swanberg and T Logan *Domestic Violence and employment: a quantitative e study* *Journal of Occupational Psychology* 10 (1) 2005

works as many hours as she can in an effort to save sufficient money to leave and find a safe place for her and the baby away from her very violent partner. Her employers are both sympathetic but she says that ‘their patience is running very low and I am really worried that I will lose one or both of my jobs.’

Domestic violence does not discriminate according to postcode, culture educational standard, workplace, size of workplace or nature of engagement. Certainly, the time taken and cost of living with, escaping or staying away from a violent relationship does not change because of these factors. Whether a person is employed on a full-time basis in a well-paid, secure job or in casual, precarious employment, their risks and costs of living with violence is not diminished.

Carla is a 50-year-old woman with an MBA and two children. Her husband is a high achieving, successful businessperson. After a long marriage in which Carla supported her husband’s business ventures, she returned to work. Carla states that her husband became physically violent soon after. ‘When he first attacked me physically, I was completely traumatised. I couldn’t believe it. When I look back there had been a pattern of emotional abuse over many years. For example, he did not like me receiving any attention and regularly made comments that undermined my confidence, so that I constantly doubted myself. I guess I had just lived with it. I kept what was happening to me hidden from my work because I was trying to maintain a demanding and high-profile executive position. My husband physically attacked me but then threatened suicide. I was constantly anxious for my own safety and for his. Because I had just started my job, I was still in my probation period and was scared of losing my job. It was very important to me that I felt I was competent and achieving at work because at home I was constantly being undermined and rapidly losing all self-confidence.

My husband stopped paying the mortgage or any other bills, so I needed to keep my job to support myself and our two children. When I told him that I was leaving, he froze our joint bank account. I had to lie to cover up that I had no money – something that I had never experienced in my life. My employer was lovely, but I felt so ashamed and was terrified of losing my job. I also felt incredibly guilty because I couldn’t perform in the way that I wanted to or that they needed me to. I was trying to juggle my job, court, counsellors, and children while I was trying to sort out my finances and find somewhere safe to live.

I started to take a lot of sick leave. I had never taken sick leave before but found that I just couldn’t cope physically or emotionally and was having real trouble coping with the effect on my children. I worked as much as I could, whenever I could. I felt I couldn’t do my job but that I couldn’t ask for more leave, so I left the job that meant so much to me. I had to sell our home to pay off our debts and now live in a small 2-bedroom apartment. I can’t help my own children in the way that I had hoped and planned. I lost my home, have no savings, no career and have to be extremely careful with what money I do earn. I felt alone and humiliated. I hated being dependent on others to support myself and my children. If I had been able to keep my job I would have coped better, then, and now.

Additionally, income replacement is a matter of safety for many women. Many women experiencing domestic violence report that their perpetrators closely monitor their income. Unexplained changes to that income may alert the perpetrator that the woman is taking steps to escape or live without violence.

### [An employee must accrue their full entitlement at the beginning of employment](#)

Paid family and domestic violence leave must ensure that all women are able to maintain their employment without regard to their length of service. Leave entitlements must accrue in full at the commencement of employment and then on each subsequent anniversary of employment.

Australian Bureau of Statistics estimates that between 55% and 70% of women experiencing violence are currently in the workforce – that is, more than 800,000 women, or around one in six female workers. This means that a significant number of Australian workplaces will be impacted by women’s experiences of domestic and family violence.<sup>14</sup> Research into the workplace implications of domestic and family violence has demonstrated how such violence can undermine the working lives of both victims and survivors.

The 2011 National Domestic Violence and the Workplace Survey found that nearly half (48%) of respondents who reported experiencing domestic and family violence said the violence had affected their ability to get to work. The main impact of violence was on work performance - 16% of victims and survivors reported being distracted, tired or unwell and 10% needed to take time off work. Further, women who experience domestic and family violence are also more likely to have lower personal incomes, a disrupted work history, often have to change jobs at short notice and are very often employed in casual or part time work.<sup>15</sup>

Sarah is a court support worker in a Women’s Domestic Violence Court Advocacy Service (WDVCAS) Sarah states: In many instances the workplace is the only place where women experiencing domestic violence feel safe. Secure paid work and financial independence are critical in enabling workers, especially those with children to leave an abusive relationship. While it is very important for a person living with violence to retain paid employment, there will also be occasions when they need to take time off work or have some flexibility in their working arrangements, particularly when they are living with or escaping violence. Paid domestic violence leave is a very important part of providing women with the time to attend court hearings, provide evidence to police, find somewhere safe to live, find a new school for their children and access support services.

The workplace may be the only time when a person experiencing family or domestic violence can - know that they are safe. It also allows them to talk with other people – to be told that they don’t have to continue to live with violence, so that they can begin to imagine a life without violence for themselves and their children and to find help to escape. Unfortunately, the fear of losing their ‘one safe place’ and economic security can also act as a perverse incentive. Forced to choose between the financial security of their paid employment and undertaking the activities associated with making safe arrangements for themselves and their children to deal with a violent partner, or leave a violent relationship, such as attending ADVO and court related matters, a person living with violence will often choose to not attend vital lifesaving appointments if they fear losing their job by appearing to be an ‘unreliable employee’ or reducing their accrued leave entitlements, that they may need to protect children, or if a controlling perpetrator restricts their ability to attend work.

### [All employees must have access to 10 days of paid family and domestic violence leave](#)

The consequences of family and domestic violence are not diminished because a person works fewer than 38 hours each week. Consequently, it is inappropriate to provide leave entitlements on a pro-rata basis.

People who are employed on a part time basis do have access to leave entitlements, but as these are on a pro rata basis, this is often very quickly reduced when workers are forced to take leave to protect their children, or when a controlling perpetrator restricts the worker’s capacity to leave the house to attend work. For workers who are employed in precarious employment there is not even a ‘Sophie’s

<sup>14</sup> ABS Personal Safety Australia 2005 (Reissue) Cat. No. 4906.0 35

<sup>15</sup> Ludo McFerran, Safe at Home, Safe at Work? National Domestic Violence and the Workplace Survey 2011 and Domestic Violence Workplace Rights and Entitlements Project, Domestic Violence and the Workplace, Employee, Employer and Union Resources (2011)

Choice' as they do not have any access to paid leave entitlements. The outcome is that without access to leave related to domestic violence, many people resign rather than deal with being considered a 'bad employee' or are terminated from their jobs. If a person living with violence leaves their job it is much harder for them to find help or to leave that violence. For working people who are living with violence, paid domestic violence leave is important while they are living with violence – before they leave; at the time they make the decision to leave and after a person leaves a violent relationship.

Below, we described the cost and time impact of family and domestic violence upon a person, their family, and their employment.

### When a person is living with violence

Many people who are living with violence have children who may also be experiencing violence.

- This will mean that in most cases a woman who is living with violence will have expired all of her available leave entitlements (annual leave, sick leave etc) because over time she will have needed to take this time off work to deal with her own injuries or those of her children, or because the perpetrator of violence would not allow her to leave the house to go to work, or because she has needed to attend appointments with her children at school, counsellors, doctors etc. She may also have needed to take time off work so that her children are not left alone or left alone with the perpetrator of violence – to protect her children.
- Children may be affected not only by physical assault, but also by witnessing (usually) their mother and siblings assaulted.
- The mother and children may need medical attention or even hospitalisation. They may also need to see counsellors if they are experiencing vicarious trauma from witnessing family violence.
- Appointments for women and/or children with specialist counsellors, doctors or even hospital can mean that the woman who is working will need to take time off work to attend those appointments – both for themselves and also for their children.
- It is usually impossible for women and children who are living with violence to get 'permission' from the perpetrator to attend these appointments, or to be given money to pay for these services, so the woman needs her own income to enable her to seek professional help for herself and her damaged/injured children.
- If a woman takes time off work and does not deliver her expected income to her violent and controlling partner, this often exacerbates the violence and also alerts the perpetrator to the fact that their victims are seeking assistance – again a common factor in initiating and escalating violence.
- Many people who live with violence do not only experience physical violence, but also control over their finances. The perpetrator of violence will often want their victim to work so that they bring in an income, but will then control that income, so that their victim is unable to have any freedom or independence and is unable to escape their control.

This list is indicative rather than exhaustive but makes clear that it is very difficult for a person to arrange to leave a violent relationship without a secure job and paid leave.

### When a person is preparing to leave violence

Paid DV leave allows a person to continue to have an income – so not attracting attention from their violent perpetrator – while they take time off work to seek counselling or attend appointments with police etc. in order to plan an escape. In many cases it may take many appointments or meetings with police, housing department, CentreLink, refuge staff, counsellors etc. to finally achieve an escape from violence. It is essential for both the woman and her children that the family is kept together,

and that 'normal' life is resumed as soon as possible. Before a person is able to leave a violent relationship, they will need to organise:

- A safe place to live. This is extremely time consuming as the Sydney rental market is saturated.
- A safe place for children to attend school
- A safe place for their children to attend childcare
- Legal advice
- Transport so that they can continue to go to work. This may mean buying or hiring a car, or paying fares on public transport so that children can attend school and the mother can attend work and other appointments (lawyers, police, counsellors etc)
- Transport so that they can leave the violent household (this may involve organising and paying for a removal truck and removalists to assist)
- Paying bond on a new rental property
- Paying bond on utilities – gas, electricity, telephone at the new home
- Buying new school uniforms, books, etc. for school aged children
- Paying in advance for child care placements
- If it has not been possible for the person to leave with their belongings, they will need to purchase essentials for themselves and their children – new clothing, new beds, new kitchen utensils, food, laundry equipment, cooking equipment, toys for young children, bed linen, towels, school books etc., if children are older they may need a laptop, sporting equipment etc. or other equipment for school
- If a person has pets, then it is important that the pets are kept with the family, particularly if there are children – so this also means purchasing pet food etc.
- In addition to the cost of these goods that must be moved or replaced, it is also extremely time consuming

All of these arrangements are more difficult in a regional or remote location. There are always fewer services, and they are always further away, so women planning or trying to leave violence need more time to attend appointments with counsellors, police, lawyers etc.

- Women in regional and remote areas also need to move further to escape violence as in small or isolated communities it is essential to be physically as far as possible from the community where the perpetrator and his network are able to find her.
- This is also a major issue for women and children who experience violence in ATSI and CALD communities and in closed faith-based communities. Women and children who are escaping violent relationships in these communities may have language difficulties that make it extremely difficult and time consuming to find appropriate support and advice. They may need to travel very long distances to access services and to escape identification and stalking behaviour etc.
- For these women and their children, it is essential that they have time to seek and access appropriate services and sufficient funds to pay for travel to appointments or safety outside the community or the region.

### At the time of escape

- It is recognised by all professionals in the sector and by the available research that the most dangerous time for a woman and her children living with violence is when they try to escape. Many women have been living in domestic violence for some time, trying to keep themselves and their children safe while they try to consider their options. The nature of domestic violence means there can be a serious incident which happens suddenly without warning.

- Police may attend and make an application for an ADVO with an 'exclusion' condition which prevents the defendant from returning to the home. As a result, women find themselves suddenly responsible for having to pay the whole amount of the rent, utilities, food etc. without having had the opportunity to prepare for such an event.
- They and their children may have injuries and are directed by police to attend the Forensic Medical Unit to have their injuries documented for evidence, which takes hours. They are then required to attend court, sometimes on multiple occasions, taking further leave from work which is often unpaid.
- Even if women ask police to remove the 'exclusion' condition, police will generally not do so. Women without access to paid leave will be at risk of accruing rental arrears pretty quickly as they wait for Centrelink applications, Start Safely applications etc. to be processed.
- Paid DV leave allows women the opportunity to plan to leave, to take action to leave and supports them after they choose to leave. It also allows women who had yet to make a decision and who find themselves facing a new living arrangement some financial security as they navigate service systems.

### After a person has left violence

- Unpack into the new home and assist children to settle in to new routines and new services – children will often be traumatised and afraid to attend a new school, child care placement etc. and may want their mother to attend with them.
- Children are often traumatised and unable to settle into new schools. They often have problems at school that require their mother to attend the school to deal with behavioural problems, ill health, emotional problems, learning issues etc. Women are also required to attend schools, childcare and clubs to discuss safe arrangements for children including authorised persons for collection of children and plans for the school's ability to monitor and identify warning signs in children regarding trauma and other child protection related matters.
- If police are involved, it will be necessary for the woman to attend multiple appointments with police to provide witness statements, evidence of assaults, medical records etc. These statements and records require hours of work and must be done at a time when the attending police officer and doctors are on duty and available.
- Usually there will be a need to attend court for AVO's and often also the Family Court for access and property related issues. These court attendances also involve appointments with lawyers, police, court appointed counsellors etc. and court dates will always be protracted.
- In many instances, perpetrators fail to attend court, or seek multiple adjournments so that women must arrange time off work, child care etc. so that they can attend court only to find that it has been cancelled, postponed again.
- These issues related to court do not end quickly. Most women who have survived and left a violent relationship report that court hearings often continue for more than 3 years.
- There is also significant evidence of perpetrators using 'revenge AVOs' against survivors which a woman is often forced to attend to defend.

Again, this list is indicative rather than exhaustive but makes clear that it is very difficult for a person to leave and remain away from a violent relationship without a secure job and paid leave. While the immediate crisis of leaving violence may be over, the ongoing pain continues for most women and their children. The implications of having lived with and survived a violent relationship extend for many years, particularly when there are children. Appointments with counsellors etc. often continue for many years. They are time consuming and can be costly. A woman who is working will not be able to access 'free' community services in many instances and so will need to locate and pay for the supports that she and her children need. This will often require taking time off work and is prohibitive if the woman is not working.

## Financial and other costs of leaving violence

There are many financial costs to leaving violence. Costs will depend upon how quickly a person leaves, how many children and their age, how far a person must go to escape, what resources are available in the current and new location, what personal supports the person has etcetera. Of course, if the person has employment and a supportive employer, then a person is more likely to consider leaving violence and is more likely to successfully leave and establish a new and safe home.

### *Moving house*

- Truck hire: \$270 (week day) \$360 + fuel and tolls for day hire of a moving van on a weekend.
- Truck + driver (no labour): Around \$160 per hour plus fuel and tolls to hire a truck with a driver
- Removalist: Around \$100 per half an hour plus fuel – removal only, no packing included (depending upon the distance to be moved and how much to be moved)
- Removalist Interstate or regional move: approximately \$5,500+
- Plus take a day off for on site assessment and quote by removalist
- Gas & Electricity: around \$400 for urgent connection depending upon provider and area
- Solicitor: Around \$2,500 to sell + buy a new home
- Plus take at least one day off to meet with loan provider and at least one day off to meet with solicitor
- Rental properties: Usually require 4 -6 weeks rent in advance as bond, plus first two -4 weeks rent up front
- Depending upon what suburb, and whether you rent an apartment or house, a minimum of around \$500 - \$650 per week in Sydney's western suburbs. It could cost more if you tell the agent that you have pets and/or children. It will certainly be much more difficult if you admit to never having rented previously, not having an independent income, or previous violence or property damage at a rental property or leaving a property at short notice – all very likely where there is domestic violence.
- It will take many appointments to inspect and be approved for a rental property. It is not unusual for up to 30 property inspections. These must be at the agent's convenience, so often require taking time off work.

### *Legal fees*

- Solicitor for family law, AVO, property settlement, access/custody arrangements: Depending upon complexity of issues, around \$300 per hour consultation fees
- Around \$5,000 for court appearances. This does not include barristers' fees or other disbursements that may apply
- It may take years for property settlements, child access/custody disputes and may take months for AVO's and other criminal proceedings. This will mean taking days off to appear in court, meet with lawyers, police, court counsellors and other counsellors

### *Child care and schools*

- Child care and pre-school: all outstanding fees must be updated and cancellation fee of 2 – 4 weeks or forfeit bond: Depending upon age of children, number of children, centre and area, around \$1500 per child
- Bond on new childcare centre: Depending upon which centre and which location, a city child care centre average cost is \$600 - \$1000 per week per child with 2 – 4 weeks in advance to be paid. Most child care centres charge a premium for babies and pre-toddlers. Child care rebate

usually reimbursed one month in arrears, so an initial outlay of at least \$1,200 plus similar amount to current centre.

- It will take at least one day off work to meet with current child care centre to arrange cancellation, payment of fees etc. It may take several days and many phone calls to find and make arrangements with a new child care centre
- For older children it will be necessary to take at least a day off to transfer from one to another school.
- Public schools have school fees averaging \$750 - \$1,500 each, depending upon the age of the child and what subjects are chosen.
- School uniforms: Depending upon the age of the child and what sports and other subjects are chosen (e.g. cooking, manual arts, fine arts, music etc.) uniform costs will vary.
- Average public school fees: \$500 - \$700 per child
- School fees for private schools are considerably higher, and where it is safe for a child to remain in their current school moving the child could cause greater upheaval for the child.
- School books and equipment, including laptops for older children: depending upon the age of the child and the subjects chosen and other school requirements this could be around \$1,000-\$1500 per child
- School bus: When a child transfers to a new school there will be a period when school bus passes need to be transferred or are unavailable. School bus costs to the local public or Parish school could cost around \$20 p- \$25er week per child

### *Counselling*

Depending upon the specialty and the complexity, counselling for children and adults can be very expensive and will take many months in most instances.

- Psychologist: initial consultation \$250+
- Counsellor: Around \$240+ initial consultation
- Psychiatrist: Around \$500+ for first consultation then per hour (most do not bulk bill)
- GP: \$80 - \$160 for a short or long consultation with a GP

Each counselling session will require time off work – both for the counselling session itself (usually one hour), plus time to pick up children from school/childcare and return them, plus time to deal with behaviour difficulties that often arise associated with family violence and accompanying counselling and moving house, school, child care etc.

### *Essential goods in a new home*

- Kitchen utensils
- Food
- Medicines
- Beds
- Ben linen
- Bathroom equipment, including towels etc.
- Toiletries for the woman and her children
- Laundry equipment
- Clothing for the woman and her children, including school uniforms, baby clothing, nappies etc

Depending upon the number and age of children and the location of the new home, even buying these from op shops or other second-hand providers will be expensive. A very minimum set up cost of

\$10,000 for a new home with children is expected. Regional areas without access to op shops and second-hand providers could be more expensive.

The expense of setting up a new home will also vary according to whether the woman has been able to take any belongings with her when she leaves. Her belongings are likely to have been damaged, destroyed or taken from her before she leaves. She is likely to not be able to return to her home to collect belongings and perpetrators rarely provide access to women who have left them. There will be many other expenses according to the individual circumstances of the woman and family concerned. How far the woman needs to move and how quickly she needs to do so will impact on the cost and the amount of time involved. This list is indicative rather than exhaustive but makes clear that it is very difficult for a person to leave a violent relationship and live safely without a secure job and paid leave.

### Other things that take time

A woman leaving violence will need time off work to do many things at the time when she actually leaves the violence:

- Find potential new rental properties or locate a refuge – time necessary will depend upon how far the woman needs to go to escape and if she has her own transport
- Attend interviews for refuges
- Attend interviews and ‘viewings’ for up to 30 rental properties before finding a suitable and affordable new safe home
- Pack up her own and her children’s belongings – this may have to be done very quickly while a perpetrator is away from the house at work etc, or may require several attempts to collect essentials and hide them or relocate them over a period of time
- Move her belongings to the new location
- Speak with utilities and arrange connection and bonds – water, gas, electricity, telephone, internet etc.
- Talk with her children’s schools to arrange transfers
- Locate and talk with her children’s new schools to arrange transfers
- Talk with her children’s childcare centre/Family Day Care etc to arrange transfers
- Locate and talk with her children’s new childcare centre/Family Day Care etc to arrange transfers
- Talk with her children’s current sporting groups, music teachers, scouting groups, art classes, counsellors, doctors, and specialists etc to arrange transfers
- Locate and talk with her children’s new sporting groups, music teachers, scouting groups, art classes, counsellors, doctors, and specialists etc to arrange transfers
- Go to the bank to change bank accounts: this may take several visits and must be done during work hours
- Go to CentreLink to arrange to change personal details or apply for benefits. This will take many visits and must be done during work hours
- Locate and meet with police, solicitors, legal aid/community legal centre/DV court support workers etc. There are likely to be many of these interviews and meetings, particularly when preparing to leave and at the time of escape. There will be more interviews necessary if the woman and/or her children have been injured, or if there has been property damage or other criminal damage or activity

This list is indicative rather than exhaustive but makes clear that it is very difficult for a person to leave a violent relationship and establish a safe, secure life for themselves and their children without a secure job and paid leave. There will be many other time-consuming activities when living with or

leaving violence. Most, if not all must be undertaken during working hours. It is also very important to remember that many women and children live with violence for a long time before they leave, so there will be countless times when a woman is not able to go to work because the perpetrator will not allow her to leave the house, will not allow her to have money for fares to work, when she is fearful for her children's safety, and so stays home to protect them, when she and/or her children are injured and must go to doctors, hospital, or are kept at home and are too injured to attend work.

Just as anyone can find themselves living with violence, anyone can find themselves having to pay to survive and to leave violence. It is expensive – not only in terms of money, but also time and the long-term traumatic impact on a person – particularly when that person is a parent. Providing paid leave to a person so that they can keep their job and leave violence is the best way to ensure that a person has the opportunity to leave and the opportunity to live – it is not an 'option' – it is quite literally a matter of life and death.

### Other leave entitlements

The use of Paid family and domestic violence leave must not be made conditional on the use of any other leave entitlement. Other types of leave should be reserved for their intended purposes.

### Conclusions

**You are more likely to survive, leave and remain away from a violent relationship:**

- **If you have a secure job – one which you know you will not lose if you need to take time out because you are living with or leaving a violent relationship**
- **If you have a secure income so that you can plan to leave and remain away from a violent relationship**
- **If you have secure paid leave entitlements, so that you can take leave to protect yourself and your children in a violent relationship and plan your escape from that violent relationship**

**For these reasons, access to paid family and domestic violence leave:**

- **must be paid at workers' *actual* rate of pay, rather than base rate**
- **must be an 'upfront' annual entitlement, rather than progressively accrued**
- **must be a minimum of ten days, regardless of the nature of engagement**
- **must *not* be conditional upon use of other entitlements**

### Paid family and domestic violence leave must not be diminished by the nature or size of the employer's business

The impact of family and domestic violence does not diminish in a small workplace. On the contrary, in a small workplace where people work closely together, the impact upon other employees and on the workplace itself is likely to be magnified.

Cynthia is 38 years old with one child. Cynthia states that: When I was 24, I met a very charming and successful man who made me feel very special. I loved my job working as a beautician in a small family business. I was earning very good money, had very good promotional prospects and was studying to advance my career. I was paying a mortgage on a small apartment. The man who became my husband had a successful career and was very well respected in the community. We had a very happy and active social life. About 6 months after we married my husband became physically violent. I was shocked and frightened. I didn't know what to do. I was often beaten around my head and had bruises

and cuts on my face, arms, and body. I tried to cover these with makeup and clothing so that I could go to work. I was ashamed and very frightened but had to go to work because my husband made me pay all of the bills and kept demanding that I bring home more money. He forced me to sell my apartment and give him the money. I had nowhere that I could go to escape him. He installed cameras and monitors all around the house so that he always knew what I was doing. Going to work was the only time that I felt safe, and it gave me a chance to find help to leave my husband. He started sending me threatening texts and emails and would call my office constantly demanding to speak with me and frightening the receptionist if I didn't answer his calls. When I became pregnant the beatings continued and I was often too injured to go to work, or my husband would stop me from leaving on time, so that I was often late. I used to lie about why I was late or not at work. I was staying awake at night to cook and clean for my husband so that he would let me leave in the morning, so I was constantly tired, sick and often injured. He insisted on coming to our work Christmas party and one of my colleagues made a formal complaint that he had sexually harassed her at the party. I was incredibly embarrassed. When I tried to leave him, my husband turned up at work and demanded to see me. He waited for me in the car park at night time and attacked me, pulling out most of my hair. My friends at work were terrified. My employer said 'enough'. I couldn't cope anymore and had no choice but to leave my job.

Family and domestic violence can also become a workplace health and safety issue, not only for the person against whom the violence is being perpetrated, but also for their colleagues. The perpetrator of domestic and family violence may go so far as to target the victim or survivor at work. They may do this through emails, by phone or by turning up at the office in order to try and get the victim/survivor fired or force them to resign. This can be part of an effort to increase control over the victim/survivor—that is, by increasing the victim/survivor's economic dependency, undermining their self-confidence - or in order to punish them for attempting to leave the violent relationship.<sup>16</sup> Indeed, SafeWork Australia and its state and territory equivalents have recognised this in recently issued information and guidance material in which they refer to family and domestic violence as being a Workplace Health and Safety issue if the perpetrator makes threats, intimidates or carries out violence on a partner or family member at the workplace, including if working from home.<sup>17</sup>

The *actual* cost to an employer is *not* providing paid leave to employees who are living with violence.

When an employee is living with domestic and family violence, there are often very real costs and negative impacts that flow to the workplace.

The so-called 'care economy' includes workers in the health, disability, aged care services, education, early childhood education and community sectors. It is an overwhelmingly feminised and low paid sector of the economy. While it is difficult to reliably quantify, based upon other available statistics to which we have already referred, we would expect that incidence of family and domestic violence would be higher in this sector than in the general economy. There is also a well reported workforce crisis across the care economy.<sup>18</sup> Approximately one in four workers in the care economy report that

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<sup>16</sup> Australian Human Rights Commission Factsheet: Domestic and Family Violence – a workplace issue, a discrimination issue

<sup>17</sup> SafeWork Australia <https://www.safeworkaustralia.gov.au/doc/family-and-domestic-violence-workplace-information-sheet>

<sup>18</sup> <https://www.abs.gov.au/media-centre/media-releases/secondary-jobs-continue-grow-march-quarter-2021> and <https://lmip.gov.au/default.aspx?LMIP/GainInsights/EmployersRecruitmentInsights> and <https://lmip.gov.au/default.aspx?LMIP/GainInsights/VacancyReport>

they are planning to leave their job each year. This is particularly an issue in regional areas.<sup>1920</sup> In March 2021, the National Skills Commissioner, Adam Boyton has been asked by the Prime Minister to conduct a national review to address skills and labour shortages in the community and disability sector. In establishing the review, the NSC Commissioner, issued a Discussion Paper<sup>21</sup>, in which it is stated:

*The care and support workforce provides essential services to Australians and includes some of the fastest growing occupations in the labour market. There are a range of factors contributing to demand across aged, disability, veteran and mental health care..... Accordingly, demand for workers in the care and support workforce is expected to continue to grow through to 2050.*

*However, labour shortages are emerging, which can be more pronounced in regional and remote communities. Without sustained growth in the care and support workforce, particularly over the next 5 years, the capacity to provide essential services will be challenged.*

*The Commissioner has been asked by the Prime Minister to call for submissions to address what strategies and tactics are most effective in attracting and retaining a workforce/worker with the right skills.'*

The practical implication of this national workforce crisis in the feminised care workforce is reinforced by the experience of regional NDIS providers who have reported that if a disability support worker leaves their service, the average time taken to recruit a suitable new employee is around ten weeks, with additional time taken for on-the-job training and ongoing 'buddy shifts' until a worker is able to work unsupervised.

#### **Cost of replacing staff who leave and need to be replaced**

While there is no 'formula', a large medium-sized regional QLD NDIS provider told us: 'This is something we have never quantified. As a provider it is something we just have to do to ensure the participants are able to receive their support needs; but at a quick calculations:

Advertisement: \$350

Time to shortlist (assume 2 hours at \$70/hr): \$140

Time to interview (assume 4 interviews at \$70/hr): \$280

Reference check & Worker Suitability Screening etc. (assume 2 hours at \$70/hr): \$140

Letter of offer and induction prep (assume 2 hours at \$70/hr): \$140

Induction (assume 8 hours with an average of \$90/hr inclusive): \$720

Initial Buddy Support (assume 3 hours at \$50/hr): \$150

Probation Reviews (3 & 6 month mark at \$120/hr (employee and supervisor): \$240

So, a conservative guess would be \$2,130 not inclusive of any additional individualised training or participant specific buddy supports.

This is with an additional online induction program (which costs us \$7,000/year; which if I average this cost out over the number of people who undertake induction over the year works out to be an additional \$50/pp)'

Another, medium sized regional NSW provider says: 'The total cost to recruit, onboard and train new Disability Support Workers is related mainly to wages cost. It generally takes a full month of working before they reach acceptable competence. This provider implemented paid DV Leave in March 2017 and pays ten days per year plus two days per occasion. Since introducing the policy, the organisation has paid a grand total of 74.5 hours of DV leave across four staff members (male and female) until June 2021. The total wages cost of DV leave has been \$2,336.21.

<sup>19</sup> Dept of Employment Projections to May 2025 based on the forecasts and projections for total employment published in the 2021-22 Budget Papers [https://budget.gov.au/2021-22/content/bp1/download/bp1\\_2021-22.pdf](https://budget.gov.au/2021-22/content/bp1/download/bp1_2021-22.pdf)

<sup>20</sup> The Future of Regional Jobs – a report by the Regional Australia Institute, April 2019 SIP.2018.2.1.2

<sup>21</sup> <https://www.nationalskillscommission.gov.au/news/care-workforce-inquiry>

On the other hand, to replace a worker who leaves the organisation because they have no access to paid family and domestic violence) leave is calculated as follows:

Cost of Advertisement: \$300

HR time to advertise, select and telephone interview (hours): \$105.96

2 x managers on interview panel (hours): 105.96

HR probity checks (hours): \$52.98

Online Induction Training (hours): \$155.68

Site Orientation (hours): \$311.36

On the job training to reach competence (hours): \$5,195.84

Team leader and other DSW time taken to provide on the job training/support for the first month of employment (hours): \$1,647.60

Total cost to recruit, onboard and train DSW: \$8,595,38

These same NDIS providers reported that:

1. Most workers do not access paid FDV leave and those who do access paid FDV leave do not take ten days leave. The average was one worker per year, taking less than one week of paid leave.
2. The cost of replacing a worker who leaves an organisation because they cannot access paid leave is higher than the cost of providing paid leave and then having a loyal, experienced, and trained worker take leave when they need to deal with violence in their home, plan an escape or actually escape.

The experience of these medium sized employers is reflected among large employers. Among many other large employers, Telstra, Woolworths, Qantas, Westpac, NAB, the National Retailers Association, Virgin Australia, IKEA, and most local government authorities throughout the country have paid domestic violence leave policies or clauses in their enterprise agreements. Indeed, the National Retailers Association, representing employers of a very significantly feminised sector of the economy has welcomed the introduction by the Albanese Federal Government of a paid family and domestic violence paid leave entitlement.<sup>22</sup> The Commonwealth and all state and territory governments also have dedicated paid leave for public sector employees. Where their information is available, it confirms the experience that where paid family and domestic violence leave is available, it is a less expensive option than losing an experienced and skilled employee. They also confirm that the rate of accessing paid family and domestic violence leave is very low.

Despite these reports, some industry-representative organisations continue to suggest that particularly small and medium sized employers would find it an onerous impost if they were required to pay for family and domestic violence leave entitlements. For example, in its submission to the Fair Work Commission, the Australian Chamber of Commerce and Industry (ACCI) said 10 days of paid leave for victims of domestic violence would impose a cost of \$2 billion per year on Australian employers, equivalent to more than \$200 million for each individual day of leave. However, ACCI has admitted that their cost estimate is based on an unsupported assumption about a very high rate of

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<sup>22</sup> <https://www.nra.net.au/retailers-welcome-workers-right-to-paid-domestic-violence-leave/>

use: 25% of all women employees and 10 % of all male employees making full use of the entire 10 days paid domestic violence leave every year <sup>23</sup>.

The Australia Institute's Centre for Future Work found that only about 1.5 per cent of female and 0.3 per cent of male employees would likely use paid domestic violence leave in a year.<sup>24</sup> The cost would be between \$80 million to \$120 million per year for the whole economy, while PwC research has found that violence against women and their children costs Australia \$21.7 billion a year.<sup>25</sup>

The Australia Institute analysis found the increase in wage payouts would in fact be equivalent to less than one-fiftieth of 1 per cent (0.02 per cent) of existing payrolls. The cost to employers would be "largely or completely offset" by reduced staff turnover and improved productivity.

**This means that the cost of a universal entitlement to paid domestic violence leave, regardless of the size of the employer would be approximately 5 cents per worker per day.**

## The final word

Our submission has provided reliable and conclusive Australian and international evidence demonstrating that domestic violence has a devastating impact on workers and their families and on their workplaces. This research has been presented, interrogated and supported in numerous respected Inquires, including by the Senate Standing Committee on Education and Employment, <sup>26</sup> whose 2015 Inquiry found in relation to the impact of domestic violence in the workplace that that woman living with domestic violence:

- are more likely to change their job more often
- are more likely to miss out on promotions
- are more likely to resign or be terminated
- are more likely to be bullied at work.

These conclusions were also reflected in the findings of the Victorian Royal Commission into Family Violence (2016) <sup>27</sup> which reported in part that:

*Workplaces reflect the breadth and diversity of the community and offer an important opportunity to reach people who are affected by family violence, to provide support for them, and to help them take steps to secure their safety. They are also important sites for preventing and responding to family violence because the effects of violence reach into workplaces and because attitudes and cultures that prevail in workplaces can influence the level to which violence against women is supported or*

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<sup>23</sup> The Australian Bureau of Statistics (Catalogue 4906.0, Table 4), reports that 16.9 percent of Australian women have experienced violence from a cohabitating partner (current or former), and 11.3 percent from a non-cohabitating partner, at any time since they turned 15 years of age. Those figures are not additive (since some women have experienced violence from both categories of perpetrator), so around one-quarter of women have experienced violence from an intimate partner at some point in their adult lifetimes. The corresponding figures for men are 5.3 percent and 3.7 percent, or approximately 7-8 percent combined (adjusting for those who have experienced both). The assumed ACCI *annual* utilisation ratios, therefore, match or exceed the proportion of women and men who have experienced intimate partner violence at any point in their *entire adult lives*. (reported in J Stanford Economic Aspects of paid domestic violence leave provisions)

<sup>24</sup> J Stanford Economic aspects of paid domestic violence leave provisions The Australia Institute Centre for Future Work (December 2016)

<sup>25</sup> PwC A High Price to pay: The economic case for preventing violence against women November 2015

<sup>26</sup> Australian Senate Finance and Public Administration Reference Committee: Domestic Violence in Australia, August 2015

<sup>27</sup> Victorian Royal Commission into Family Violence (2016)

*condoned. ...The Commission supports workplace-based initiatives to prevent and respond to family violence.*

*Much work has been done to harness workplaces' capacity to deal with such violence, including through the introduction in some workplaces of an entitlement to paid family violence leave and programs to help individual staff and managers recognise and respond to the signs that an employee might be experiencing violence at home. Such programs also offer an opportunity to build a respectful and gender-equitable workplace culture.*

The Royal Commission went on to specifically address the issue of paid [family] violence leave in its recommendations. It is worth noting that the Government accepted all of the recommendations of the Royal Commission and is well on the way to implementing these.

### **Recommendation 191**

*The Victorian Government, through the Council of Australian Governments, encourage the Commonwealth Government to amend the National Employment Standards in Part 2-2 of the Fair Work Act 2009 (Cth) to include an entitlement to paid family violence leave for employees (other than casual employees) and an entitlement to unpaid family violence leave for casual employees [within 12 months].*

Our submission provides important and reliable evidence that paid domestic violence leave recognises the impact of violence on workers and provides them with the time and support to access the services they need, without fear of losing their job. Paid domestic violence leave will also have a positive impact on businesses. It is estimated domestic violence currently costs the economy up to \$30 billion p.a. in lost productivity and other costs<sup>28</sup>. In workplaces, this is evidenced by workers experiencing violence having:

- increased absenteeism and staff turnover
- decreased performance and productivity
- safety issues for co-workers if the perpetrator of violence goes to the workplace

In 2021, the (then) Morrison Federal Government held a National Women's Safety Summit. Delegates to that Summit reported in their Final Statement: *[a]chieving gender equality is key to preventing violence and [the Plan] must recognise the joint role of government, business and unions in coming together to develop universal access to paid family and domestic violence leave.*<sup>29</sup>

Workplaces that provide a safe and supportive environment through the introduction of appropriate domestic violence leave clauses in enterprise agreements and associated policies and procedures very quickly become employers of choice and have higher retention rates, higher staff morale, less absenteeism and higher productivity. They also avoid the cost of recruiting and training new employees when a worker who is living with violence feels forced to leave their employer. Unfortunately, we know that not all workplaces have a collective agreement in place or a workplace policy that provides for paid domestic violence leave. We also know that not all workers have the same bargaining power. In fact, it is often the most vulnerable workers who have the least bargaining power and no access to a paid domestic violence leave policy.

There can be no argument that all people living with violence need access to paid family and domestic violence leave. Like every other social change – superannuation, paid parental leave, penalty rates, workers compensation, sick leave, anti-discrimination legislation, public education for working people, compensating

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<sup>28</sup> Fair Work Commission (2017)

<sup>29</sup> <https://humanrights.gov.au/about/news/statement-national-summit-womens-safety>

for asbestos victims, getting women and children out of mines, anti-slavery legislation - it takes courage and commitment from people, and it takes leadership by Government.

There have been surveys, reports and inquiries for over a decade. We know what is needed and why. We have clear and consistent research and evidence. Now we need political courage from leadership to make the change – there are no more excuses.