

Domestic violence legislation requires leadership

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The Domestic Violence - Victims' Protection Act 2018 takes effect on 1 April 2019. Employers who want the Act to succeed need to go beyond the letter and implement the Act in spirit.

The Act grants employees affected by domestic violence up to 10 days' leave each year, and enables them to access short-term flexible working arrangements, such as changes to their work location, hours, duties, contact details and other arrangements. It also contains certain protections.

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All of this is positive, but the Act is not an easy read, and is highly prescriptive. We expect guidance will be forthcoming from MBIE and Worksafe, which will assist.

Employers should start thinking practically about processes for promoting and managing the benefits the Act offers. Some employers are doing so already, implementing training, policies and procedures to give effect to the Act's objects.

One of the critical issues is privacy. The Act is silent on this issue, so will operate within existing privacy law. Recent developments in Australian awards and a private members' bill there impose positive confidentiality obligations on employers, and restrictions around disclosing information. Employers here should think about who requests are made to and how, what information is recorded or shared, and with whom - including within payroll and on payslips.

While training requirements don't appear in the final legislation some employers are identifying and training specific contact people within their organisations to manage applications sensitively and discreetly. Some are providing broader training across their organisations to increase awareness, and to encourage victims and others to speak up and access support. In this way, employers can hopefully help employees address the underlying issue and not just the effects, such as performance issues, absenteeism or resignation.

On top of what is already a hard subject to raise, some of the mechanisms in the Act may, in themselves, act as deterrents to employees accessing the support provided (including forms that must be used, requirements to provide proof etc). Employers might think about how they can lessen these deterrents, for example, by making template forms available, or having people on hand to help employees make requests and guide them towards other support in either the community or workplace, when they apply for leave or flexible working arrangements.

Support might also be extended in other ways - paid or unpaid - to employees who are helping others through domestic violence, or to users of domestic violence, to encourage them to seek help.

The Human Rights Commission, together with several prominent NZ employers, has developed a model family violence policy, available at businessworkingtoendfamilyviolence.co.nz. It contains a range of different practical options for employers to consider, including 'gold standard' options that go beyond legislative minima.

By thinking practically and focussing on the objects of the legislation, employers can help create an environment where employees feel more comfortable disclosing domestic violence, and seeking and receiving help. This can only be a good thing.

This article was written for the NBR by Hamish Kynaston (partner), Andrea Pazin (senior associate) and Louise Grey (solicitor).

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