

Domestic and family violence

A workplace approach to
employees who use or may
use violence and abuse

A resource for all Queensland workplaces

Comprehensive workplace responses to domestic and family violence can achieve better outcomes

While many organisations have domestic and family violence prevention (DFV) policies and initiatives that support employees who are experiencing violence, workplaces – nationally and internationally – are still grappling with how to respond appropriately to employees who use or may use violence and abuse in their personal relationships.

Ensuring the safety of those impacted by DFV, especially children, is of paramount importance.

Responding to employees who use or may use violence and abuse needs to be handled appropriately and sensitively. Holding employees accountable for their behaviour is fundamental in a variety of contexts, and misbehaviour in the workplace has direct consequences.

With 65 per cent of Queenslanders in the labour force, all workplaces have a significant role to play in promoting cultural change and responding to employees using violence.

Queensland's *Domestic and Family Violence Prevention Strategy 2016–2026* seeks for 'Queensland's workplaces and workforces to challenge attitudes on violence and effectively support people affected', while also ensuring 'perpetrators stop using violence and are held to account'.

Everyone has the right to feel safe and supported in the workplace. Offering all affected employees – victims, persons using violence, bystanders, carers or those assisting – appropriate support options can achieve better workplace outcomes.

Key community, government and business partners, including Australia's CEO Challenge (ACEOC), DVConnect, MinterEllison and Queensland's Public Service Commission are working together to strengthen Queensland workplaces' response

to employees who use or may use violence and abuse. All organisations face similar challenges and opportunities in addressing this issue.

This resource provides support for workplaces by highlighting issues to consider when responding to employees who use or may use violence and abuse.

It also:

- highlights the importance of language describing abusive behaviour
- shares key considerations that support organisational and individual responses (including identifying safety needs of employees who may be victims of employees who use violence and abuse)
- identifies key legal and policy issues to consider.

This resource supports all Queensland workplaces in their journey to design more comprehensive workplace responses that prevent violence, support affected employees, and promote safe, respectful workplace cultures and gender equity.

It represents a first step to promote workplace conversations, and forms part of a broader response, building on the Queensland Government's DFV prevention workplace package. This is available publicly and comprises a model DFV policy template, leadership pledge, communication toolkit and other supporting resources, that all workplaces can adopt.

Driving meaningful change requires workplaces to act and work together to make a difference.

Together, Queensland workplaces are saying **Not Now, Not Ever.**

'Victim safety is the core priority of all responses to those who use or may use violence and abuse.'

(after Council of Australian Governments endorsed National Outcome Standards for Perpetrator Interventions)



‘We work with chief executives to raise employees’ awareness of how to recognise signs of DFV (including perpetrating behaviour) in the workplace and respond appropriately, including referrals to information and support services. Early intervention is key.’

Jacque Lachmund, Chief Executive Officer, ACEOC

‘We continue to support our employer clients from all sectors to respond legally and appropriately to employees who may be using violence, with the aim of ensuring that safety, health and productivity is maintained in their workplaces.’

Trent Forno, Managing Partner Brisbane, MinterEllison

‘Comprehensive workplace support will reduce the number of people coming to our support services at crisis point. Employees using violence can be supported to understand violence is a choice. We’ve seen they can be held accountable and change their behaviour.’

Dianne Mangan, Chief Executive Officer, DVConnect

‘It troubles me that so many of our people may be affected by DFV. With workplace partners, we are promoting positive cultural change through approaches that support our people who use or may use violence to change their behaviour, where appropriate. As Queensland’s largest employer we have a responsibility to act.’

Robert Setter, Commission Chief Executive (Acting),
Queensland Public Service Commission

Why is domestic and family violence a workplace issue?

DFV can impact an employee's safety, wellbeing, attendance and performance at work.

1 in 6

Australian women has experienced physical abuse from a current or former partner

1 in 19

Australian men has experienced physical abuse from a current or former partner

1 in 5

Australian women say the violence continues at work

Between
25–50%

of Australian women subjected to DFV report having lost a job, at least in part due to violence

Two-thirds

of women affected by DFV are working

Costs the Queensland economy between
\$2.7 billion and
\$3.2 billion
annually

With the number of DFV victims in the workplace, it is statistically probable that there are a number of employees in the workplace who use or may use violence and abuse in personal relationships.

‘Domestic violence is an important issue for the workplace... if a significant shift in attitudes is to occur in the community, each and every workplace must take this insidious issue seriously and take action.’

Not Now, Not Ever taskforce report on domestic and family violence, 2015

What is domestic and family violence?

DFV occurs when one person in a domestic relationship uses violence and abuse to exercise or maintain power and control over another person. This includes behaviour that is:

- physically, sexually, emotionally, spiritually, psychologically or economically abusive
- threatening and coercive or aimed at controlling or dominating the other person through fear.

There may be instances where employees who use or may use violence and abuse are using workplace resources and time. This may allow the individual to be abusive towards a victim.

It is never acceptable to use the workplace to be abusive to those within or outside the workplace.

Examples of this behaviour may include:

- emailing, phoning or texting the victim while at work which may be part of controlling behaviour
- using work IT systems to access private information about someone
- acting abusively towards other employees or clients
- manipulating pay or roster systems to avoid child support or other obligations (as this can be a form of financial abuse)
- exhibiting high-levels of agitation or aggression following personal phone calls
- inappropriate jokes or comments made about a partner or family member that belittles or demeans them.

These behaviours may be triggering or distressing for others in the workplace who may overhear conversations, be offended by the inappropriate comment made in their presence, or be concerned for the victim's safety or their own.

All employees have the right to feel safe at work.

‘All employees have the capacity to be an active and effective bystander informing positive workplace change. The power of a bystander to confront, interrupt or prevent violence by speaking out within the workplace can ultimately shape both workplace and broader community standards and help to eliminate DFV.’

Shaan Ross-Smith, Director, MATE Empowering Communities Preventing Violence, Griffith University

Why is language important in this context?

Language plays a key role in the communication to individuals and the broader workplace about DFV. This may be direct or indirect communication.

When responding to matters associated with DFV, it is critical to use language that is appropriate and sensitive to the experience of anyone affected by the behaviour.

This resource uses the term ‘employee who uses or may use violence and abuse’ instead of ‘perpetrators’. This terminology supports a non-judgmental focus on an employee’s positive behaviour change, where this is appropriate.

‘employee who **uses** (convicted/disclosed) **or may use** (alleged/undisclosed) **violence and abuse**’



‘Language is important when talking about DFV, in particular the use of non-labelling language. Labels conflate the person with their behaviour or their experience, implying something inherent to the individual and therefore not possible to change. Shame is often experienced by those who use or experience violence in their relationships, and can be a barrier to individuals seeking help or facing up to what needs changing. Using respectful, non-judgemental language makes taking the first step easier.’

Paul Monsour, SPEAQ (Services and Practitioners for the Elimination of Abuse Queensland)

‘I am so pleased to see Queensland workplaces addressing DFV. It often spills over into the workplace as abusers actively interfere in their partners’ employment in order to increase their isolation and vulnerability. Workplaces can be part of the solution by providing education, referral to resources, reviewing security practices and offering support for all affected staff. These things make a big difference in people’s lives.’

Associate Professor Molly Dragiewicz, Course Coordinator, Graduate Certificate in Domestic Violence, Queensland University of Technology – School of Justice

What can your workplace response look like?

Queensland workplaces can work together to promote positive cultural change through targeted early interventions that support employees who use or may use violence or abuse to change their behaviour. This approach is only one part of a comprehensive and integrated workplace response.

All workplaces have a significant role to play in preventing violence, supporting all affected employees and providing safe workplaces that promote gender equity and respectful relationships.

Cultural change must start with everyone safely challenging inappropriate behaviours, including sexist language and jokes.

This model can be used to formulate workplace responses which support victims, ensure safe workplaces, hold employees accountable for their behaviour, but also to create constructive workplace cultures which are supportive of change in individual behaviours.



Workplace response model

Refer to page 4 *Driving change to support Queensland Government employees affected by domestic violence*, November 2016

Policy

Your DFV policy covers how the workplace responds to all affected employees, including someone who uses or may use violence and abuse, as well as victims. Policy procedures and organisational processes need to address the safety of all employees and clients, provide guidance on the development of a safety plan, and how safety concerns can be escalated. Procedures for referral processes, and what to do when no referral service is available are essential resources for managers.

Leadership

Leaders should use appropriate and respectful language (inclusive of all genders), and support a culture where employees are confident and empowered (as a bystander) to take action if they see or hear something concerning. Language used should be supportive and non-judgemental, and your organisational culture be constructive and supportive of those seeking assistance.

Capability

Managers need confidence in responding to someone in the workplace who uses or may use violence and abuse, an awareness of their personal bias around DFV, and support staff to build capability through training programs, such as the Recognise, Respond, Refer eLearning program. Managers need to know what to do if they are not able to appropriately respond in a situation.

Awareness and engagement

Organisations should promote referral and support services, communicate the importance of appropriate responses to employees who use or may use violence and abuse, including on-hand resources to facilitate rapid access to services to respond and support (e.g. take-away resources).

Referral services tailored to support and provide information to an individual in their particular location or which can meet individual requirements are most effective. For example, they may be:

- from a regional or remote location
- from a culturally and linguistically diverse background
- identify as Aboriginal people and/or Torres Strait Islander people
- identify as LGBTIQ+ (lesbian, gay, bisexual, transgender, intersex and queer).

Workplace partnerships

There are many key partners to support your workplace to drive positive culture change in responding to employees who use or may use violence and abuse. Some partners will be able to advise and assist your organisation to develop processes and procedures. Others have a role to play in supporting managers, or providing assistance and programs to employees.

Monitoring and evaluation

Responding to DFV as a workplace issue is a journey. It is helpful to review policies, processes and procedures to ensure appropriate responses to employees who use or may use violence and abuse, as well as victims, managers and co-workers.

What are key considerations for your workplace response to individuals?

Workplace responses to each situation involving an employee that use or may use violence and abuse will require a tailored approach based on the individual situation, your organisation's policies, and workplace-related legislation.

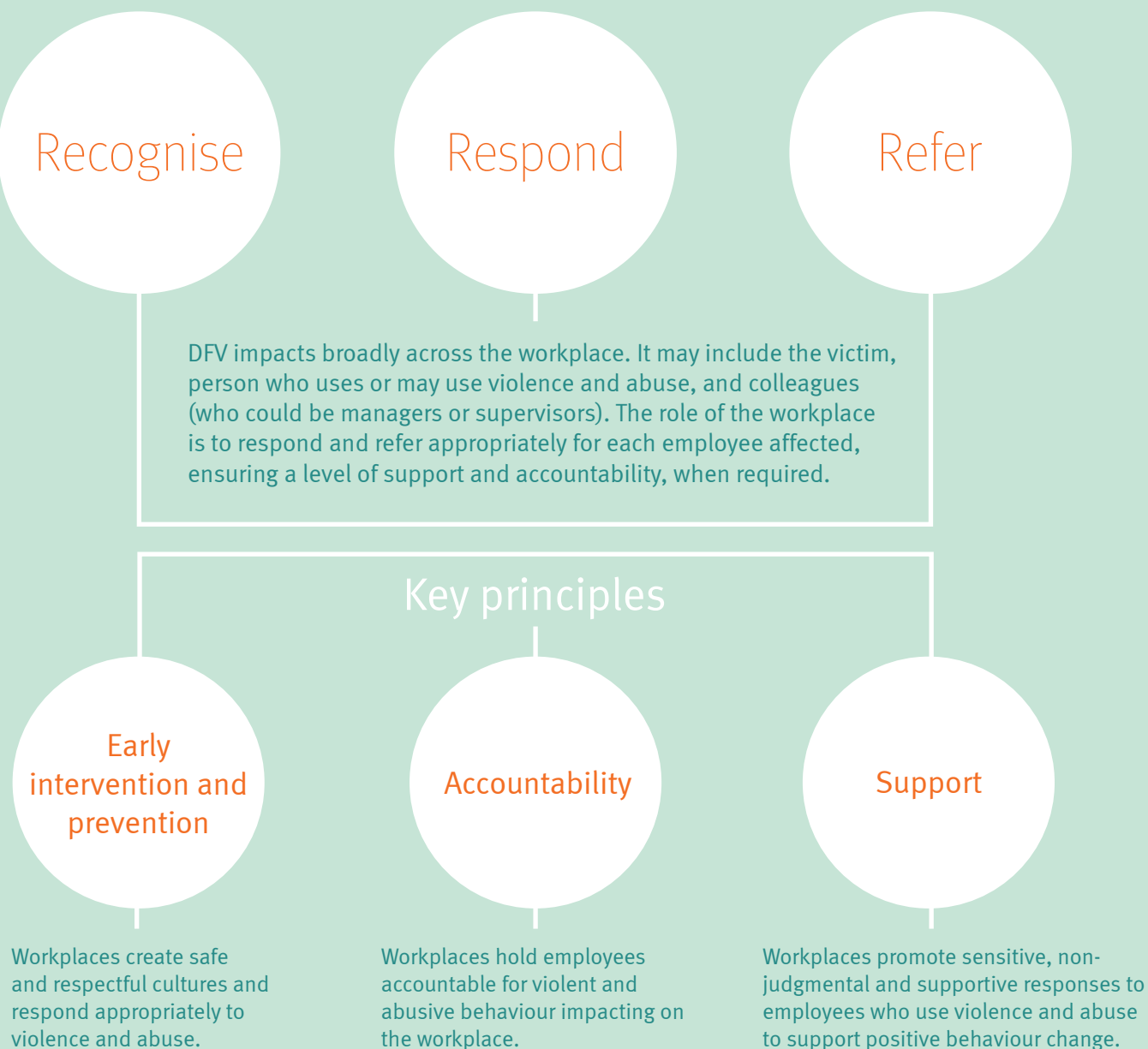
As an employer, you have a range of issues to consider when responding to an employee who uses or may use violence and abuse. It is important to balance the right to natural justice with the obligation to ensure a safe workplace, and the priority of safety for the victim.

Where both parties are employees, the focus is on the safety of the victim. Decisions on responding to the user of violence or abuse need to be made with full involvement of the victim to avoid unintended negative impacts on the victim.

Where the victim is not an employee, and there is no independent channel of contact or communication, caution needs to be taken to, again, ensure no unintended collusion or detriment to safety occurs.

However, where disclosure allows for early intervention and a request for support is made, referral to behavior change programs or other assistance is an appropriate and constructive employer response.

Queensland workplaces will continue to build on these high-level guiding principles in further resources developed in the future.



When responding to an employee who uses or may use violence and abuse, the following questions may be useful.

The list is not exhaustive, and provides key areas to think about to determine the most appropriate response to the situation.

- Are all of your employees and clients safe (e.g. emotionally and physically)? This includes:
 - the person who is experiencing or at risk of experiencing violence (may be another employee or client)
 - others that may be impacted (e.g. clients, bystanders or other employees)
 - the person who uses or may use violence and abuse (e.g. risk of suicide, self-harm and mental health crises)
 - the person directly responding (e.g. awareness of self-care).
- Do any steps need to be taken immediately in response?
 - Is there a need to move or remove the employee to ensure safety?
 - Does the employee have direct contact with vulnerable clients?
 - Have you been made aware of a serious criminal offence?
 - Are there children at risk?
 - Do you need to report the disclosure to police or child safety services?

- Are you taking further appropriate action on the available information and evidence (e.g. management, discipline, refer, report)?
 - Is the employee in a position of authority and influence?
 - Are workplace resources and time being used inappropriately?
 - Have you considered impacts on workplace performance?
 - Are you giving reasonable opportunity to respond to allegations?
- Are you meeting your legal obligations (e.g. workplace health and safety, duty of care)?
- Are you maintaining confidentiality as a priority, while making the limits of confidentiality clear?

Each situation will be different. Refer to your workplace policies, procedures and processes to support your response.

‘We must ensure we intervene swiftly with perpetrators as soon as their violence is identified, in ways that stop their violence and give the perpetrator opportunities to change their violent behaviours and attitudes.’

(National Outcome Standards for Perpetrator Interventions)

What obligations does your workplace have?

A legal perspective from MinterEllison

Both employers and employees have a range of legal rights and responsibilities which must be considered when managing DFV issues.

The sources of obligations include:

- Code of Conduct (where applicable)
- relevant legislation (including workplace health and safety, workers' compensation, discrimination, privacy, industrial relations)
- enterprise bargaining agreements and awards
- common law rights and obligations
- workplace-specific policies and procedures.

Ensuring compliance with an employer's legal obligations has a range of benefits:

- promoting the health and safety of people in your workplace
- ensuring the employer's duty of care to its employees
- minimising employee disputes and claims (e.g. adverse action, bullying, unfair dismissal or discrimination, worker's compensation, privacy)
- maintaining organisational reputation.

Key legal factors an employer needs to consider when deciding on an appropriate response.

What information or evidence do you have?

You may know that a Court has criminally convicted an employee for DFV offences. Or you may have no evidence that an employee may be using DFV. Sometimes you become aware because of a concerned colleague or an allegation received from a third party (often a family member or community member). In many cases, the 'evidence' may only amount to bare allegations or rumours. Always act with caution in responding in these situations.

However, unlike in criminal proceedings, employers only need evidence that satisfies the balance of probabilities before they can take action. To justify taking any action, the seriousness of the allegations and the possible consequences will need to be taken into consideration. If an employer has evidence an employee may be using violence and/or abuse and it satisfies a civil standard of proof, then they can and should consider taking appropriate action. The action needs to be considered in a number of contexts, including the spectrum of behaviour, organisational reputation and workplace impacts, and may include:

- monitoring the situation
- referral to support services (e.g. counselling)
- contacting external agencies (such as the police)
- temporary adjustments to the workplace or operations
- disciplinary action.

When might temporary adjustments to the workplace or operations be required?

Immediate adjustments to the workplace or operations will most often be required where there are two employees in the workplace in a personal relationship and allegations of DFV have been raised by one or both of the employees. Changes may also be required to protect vulnerable clients, especially in small or regional communities.

If a workplace becomes aware of a Domestic Violence Order (DVO), which may affect one or more employees in the workplace, the actual terms of the DVO should be considered for any workplace impacts. An example of a DVO condition may be not to have any contact with the victim. Even if no DVO has been made, temporary measures may still be needed to protect both employees. It may be relevant to incorporate a safety plan or risk assessment into your support plan approach.

The appropriate response may be similar to where a bullying complaint has been made, and could include:

- steps to physically separate the employees, such as:
 - move or transfer one employee to a different working location, or implement a work from home arrangement, being aware of locational limitations in some regional and rural areas
 - change work times
 - consider the availability of a suitable alternative position
 - discuss the possibility of an employee voluntarily using their leave balance
 - suspend an employee (only if no other options are available)

- implement rules around communication, such as a direction that email is only for work purposes and a manager is copied in.

When implementing any workplace adjustments, ensure relevant employees are advised that:

- everyone's health and safety in the workplace is paramount
- the employer is not judging guilt, nor siding with either employee
- adjustments are temporary until the workplace can obtain more information and further assess the situation
- they can contact a nominated support person (or employee assistance provider). You should provide different support contacts for each individual involved.

When might disciplinary action be appropriate?

Sometimes, DFV may come directly into the workplace, and there are clear grounds for an employer to take action, including dismissal. For example, an employee assaulting another person in the workplace is clearly misconduct and/or a criminal offence. The person who uses or may use violence and abuse in personal relationships should be made aware that there may be negative workplace consequences for their behaviour.

However, there may be circumstances in which it may be appropriate for a workplace to take disciplinary action against an employee because of conduct occurring outside of the workplace, in an employee's personal relationships.

If you become aware of alleged use of DFV occurring outside the workplace, to justify disciplinary action the employer must be able to establish that a link can be made between the conduct and the individual's employment. Taking adverse action in relation to an employee's employment may be appropriate if there is a connection between the alleged use of DFV and employment because:

- the conduct is likely to damage the relationship between the employer and the employee
- the conduct damages the employer's interests
- the conduct is incompatible with the employee's duty as an employee.

Remember: an employee is entitled to natural justice in any employment process.

Factors which may show a 'requisite connection to employment' include:

- the involvement of others in the workplace
- the nature of the employee's position, including leadership or direct contact with vulnerable clients where criminal proceedings have resulted in the loss of a required approval or registration, for example an employee who loses their Working with Children Blue Card.

Maintain confidentiality as far as practicable while understanding and sensitively communicating the limitations of confidentiality. Carefully consider the messages you give to other colleagues about workplace or operational adjustments.

Where do you get support?

Referring individuals

When responding to a situation involving an employee who uses or may use violence and abuse in their personal relationships, contact your workplace human resources area for support and guidance.

Your workplace employee assistance services provide confidential counselling, information and referral for staff, and may also support managers.

In addition, the following services may be relevant for further information, support or referral.

Police 000

In an emergency situation.

Policelink 131 444

24 hours, 7 days a week

Main police contact number and can be used to report crimes or if a person feels threatened or in danger.

DVConnect Womensline 1800 811 811

24 hours, 7 days a week

Helps women to obtain safe refuge accommodation, confidential counselling and referral to other services.

DVConnect Mensline 1800 600 636

9am to Midnight, 7 days a week

Counselling, information and referral services for male victims.

Statewide referral service for men who are seeking help to stop abusive behaviour.

Lifeline 13 11 14

24 hours, 7 days a week

Crisis telephone counselling and referral services.

Mensline Australia 1300 78 99 78

24 hours, 7 days a week

National telephone and online support, information and referral service for Australian men.

1800 Respect 1800 737 732

24 hours, 7 days a week

National service providing crisis and trauma counselling to people affected by domestic, family and sexual violence.

Workplace advice and assistance

Australia's CEO Challenge

Workplace program provides advice, assistance, policy and procedure templates, and various training programs for managers and leaders.

www.australiasceochallenge.org

DV Work Aware Program

Queensland Working Women's Service

www.dvworkaware.org/a-workplace-response-to-domestic-violence

White Ribbon Australia

A range of programs to assist organisations to develop policy and procedures or resources, and a comprehensive accreditation program for organisational culture change.

www.whiteribbon.org.au

MATE | Empowering Communities Preventing Violence

Griffith University | Gold Coast Campus | Queensland

www.griffith.edu.au/criminology-law/violence-research-prevention-program/training-development

Legal firms and management consultants

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Workplace partners

Australia's CEO Challenge

www.australiasceochallenge.org

MinterEllison

www.minterellison.com

DVConnect

www.dvconnect.org

Queensland Public Service Commission

www.forgov.qld.gov.au/domestic-and-family-violence