



Australian Government
Department of Employment
and Workplace Relations

Australian Government Response to the Independent Review of the operation of the paid family and domestic violence leave entitlement in the *Fair Work Act 2009* (Cth)

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leave entitlement in the *Fair Work Act*
2009 (Cth)

The Department of Employment and Workplace Relations respectfully acknowledges the Traditional Owners and Custodians of Country throughout Australia, and their continuing connection to land, water and community.

We pay our respects to the people, the cultures, and elders past and present, including within the department, in our communities and among those we collaborate with to deliver our work.



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The document must be attributed as the Australian Government Response to the Independent Review of the operation of the paid family and domestic violence leave entitlement in the *Fair Work Act 2009* (Cth)

Contents

Acknowledgement.....	1
Summary	1
Overview of the Government Response	2
Government Response	3
1. The Review was undertaken in accordance with legislative requirements	3
1.1. Legislative settings	3
1.2. Conduct of the Review.....	4
2. The entitlement is operating consistently with its policy intent	4
3. Ending violence in a generation requires integrated effort across all levels of government, and the workplace has a critical role to play	6
3.1. Supporting women’s economic security.....	6
3.2. Shifting community attitudes and norms towards FDV	7
3.3. Maximising impact through greater integration	7
3.4. The national response to end gender-based violence and improve economic security for women.....	8
3.5. Integrating paid FDV leave in the national response	9
3.6. Collaboration across governments	9
4. At this early stage, continued focus is needed on raising awareness and integrating paid FDV leave as an ordinary workplace practice	10
4.1. Low uptake of paid FDV leave.....	10
4.2. Calls for further guidance and support	11
4.3. Promotion of existing resources	13
4.4. Clarify areas of ambiguity	13
4.5. An integrated approach	13
5. There is a need to focus efforts on priority cohorts.....	14
5.1. Heightened barriers to access for priority cohorts.....	14
5.2. Awareness and administration for casual employees.....	15
5.3. The national response to addressing inequalities.....	16
5.4. Targeting paid FDV leave resources to priority cohorts.....	17
5.5. Resources and legislative changes to support casual workers	17
6. Government is committed to ongoing consideration of this entitlement and other opportunities to strengthen women’s economic equality.....	18
6.1. The national commitment to build the evidence base	18
6.2. Evaluating reforms	19
6.3. Building the evidence base	19
6.4. Commitment to ongoing evaluation	20

Acknowledgement

Every life lost to family and domestic violence (FDV) is one too many. The Australian Government pays tribute to those that have lost their lives to FDV, and every person who lives with the ongoing impact of FDV.

The Australian Government would like to thank all the individuals and organisations that engaged with the Independent Review (the Review) of the paid FDV leave entitlement. In particular, the government thanks the victim-survivors that courageously shared their experiences. The government thanks Flinders University for conducting the Review, and the Behavioural Economics Team of the Australian Government (BETA) for conducting qualitative and quantitative research to support the review.

Summary

Introducing 10 days of paid FDV leave for all employees, including casuals, was one of the Australian Government's first legislative actions once elected. After one year of being in force, an independent review into the leave's operation and impact has shown the entitlement is supporting employees, particularly women, experiencing FDV to maintain their employment.

The evidence shows that for those who have accessed the entitlement, it has been both life-saving and life-changing.

The Review paints a picture of broad support from employers, employees and the front-line FDV sector alike and a commitment from everyone to get the implementation of this important entitlement right. It is clear however, that more needs to be done to build understanding about the leave, particularly for priority cohorts including casual, First Nations and Culturally and Linguistically Diverse (CALD) employees.

The Review recognises an effective path forward for building awareness and understanding of the entitlement is one that is integrated in the broader national response to address gender-based violence and gender inequality, harnessing touchpoints and supports for victim-survivors beyond the workplace.

The Review provides 12 findings and 5 recommendations.

The government agrees to all recommendations made by the Review. The government is committed to ensuring any employee who needs this entitlement knows about it, and workplaces can confidently respond to and handle requests.

Overview of the Government Response

This Government Response provides a thematic blueprint for integrated action to address the recommendations of the Review.

The first section outlines the legislative settings and imperative for the Review of the *Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022* (the Act).

Section 2 acknowledges findings one and 2 which found **the entitlement is operating in a way that is consistent with its policy intent**.

The third section responds to recommendation 5 and findings 11 and 12 by highlighting the **importance of an integrated approach to ending gender-based violence**, and sets out the government's commitment to improve integration, economic security and gender equality.

Responding to findings 3 to 7 and recommendations 2 and 3, section 4 details how the government will maintain focus on **raising awareness and integrating paid FDV leave as an ordinary workplace practice**.

The fifth section acknowledges and responds to findings 9 and 10, and recommendation 4 that emphasise the **need to focus on priority cohorts** including casual employees, First Nations, CALD and LGBTQIA+ workers, and those living and working with disability or in regional, rural and remote communities.

The sixth and final section responds to recommendation one by outlining government's commitment to **ongoing consideration of paid FDV leave and other opportunities to strengthen women's economic equality**.

Table of Government Response to Individual Recommendations

Recommendation	Response	Page number
1	Agree	18-20
2	Agree	10-13
3	Agree	13-14
4	Agree	14-17
5	Agree	6-9

Help and support

Violence against women and children can be hard to discuss and reading this document may cause distress. Help is available. If you or someone you know is experiencing, or at risk of experiencing, domestic, family, or sexual violence, call 1800 737 732, text 0458 737 732 or visit www.1800RESPECT.org.au for online chat and video call services.

Government Response

1. The Review was undertaken in accordance with legislative requirements

1.1. Legislative settings

The Act received Royal Assent on 9 November 2022 with sequenced commencement through 2023 and 2024. Commencement for small businesses was delayed by 6 months allowing them more time to prepare for implementation. This important entitlement now applies as a minimum for all Australian employees.

Each element of the Act was developed to meet the core principle – *that no employee should have to choose between their pay and safety*. To achieve this, the Act:

- shifts the previous 5 days unpaid entitlement to 10 days of paid leave
- expands the definition of FDV to include conduct of an employee's current or former intimate partner, or a member of an employee's household, as circumstances where the leave can be taken, recognising the increasing diversity of Australian households
- provides the paid entitlement to casuals who do not otherwise have access to paid leave under the National Employment Standards recognising research, which suggests victim-survivors are more likely to be engaged in precarious or insecure employment¹
- makes the entitlement available, in full, from the start of an employee's employment, renewing on the work anniversary each year
- allows the entitlement to be taken as blocks or individual days, to give victim-survivors flexibility in addressing their circumstances and needs
- requires payment to be made as if an employee had not taken the leave and includes provisions requiring employers to not display information identifying paid FDV leave on payslips to protect victim-survivors, who may be experiencing financial abuse or surveillance
- includes tailored confidentiality requirements, to support victim-survivors' confidence in making disclosures of FDV in the workplace.

The Act included a statutory requirement to review the amendments to determine if they are operating effectively. The Act required the Review to:

- commence as soon as practicable 12 months from its commencement
- consider the operation of the entitlement, including its impact on small businesses, sole traders and people experiencing FDV
- consider quantitative and qualitative research
- report to government within 3 months for tabling in both Houses of Parliament.

¹ Seymour et al, [Family and Domestic Violence Leave Entitlement in Australia: A Systemic Review](#) (2021), Social Work Innovation Research Living Space, Flinders University, 3 November 2021, Fair Work Commission website, accessed 10 January 2025, pp 1, 5 & 7.

1.2. Conduct of the Review

Flinders University was procured as the Independent Reviewer in accordance with the legislated terms. The Review commenced on 15 May 2024.

The Review was informed by the views and experiences of stakeholders. The formal consultation process ran from 15 May to 7 June 2024 and provided individuals, employer and union representatives, academics and organisations with a range of opportunities, including roundtable discussions, to share their views and experiences with the Independent Reviewer.

The Department of Employment and Workplace Relations commissioned BETA to conduct a research project to support the Review. The project, occurring from December 2023 to April 2024, gathered data and information provided by victim-survivors, employers and members of the Australian workforce to give insights on use of the leave and the entitlement's influence on attitudes to victim-survivors in the workplace.

The Final Report of the Independent Review was provided to government on 30 August 2024 and tabled in both Houses of Parliament on 9 October 2024. It is available, together with BETA's research report, on the Department of Employment and Workplace Relations' website.²

2. The entitlement is operating consistently with its policy intent

Review findings:

- 1. Early indications suggest that the entitlement is operating in a way that is consistent with policy intent and is impacting positively on workplace culture*
- 2. The current parameters of the paid FDV leave entitlement are appropriately set*

The Review found the entitlement is operating as intended, with evidence showing victim-survivors were empowered to leave violent relationships, and were able to maintain financial security and stability in doing so.³ Of the leave users surveyed, 41% used paid FDV leave to make arrangements for their safety and/or their children's safety (43%).⁴ Other services accessed by surveyed leave users included police (39%), medical (22%) and legal (24%).⁵

² www.dewr.gov.au.

³ Flinders University of South Australia, Australian Industrial Transformation Institute (Flinders University), [Independent review of the operation of the paid family and domestic violence leave entitlement in the Fair Work Act 2009](#) (Independent Review), Department of Employment and Workplace Relations (DEWR), Australian Government, August 2024, accessed 17 December 2024, p 77.

⁴ Note N=46, Information on demographics of survey respondents available: Behavioural Economics Team of the Australian Government (BETA), [Family and domestic violence leave – Research findings for the Independent Review of the Fair Work Amendments \(Paid Family and Domestic Violence Leave\) Act 2022](#) (Family and domestic violence leave), BETA website, Australian Government, August 2024, accessed 17 December 2024, pp 4, 18.

⁵ BETA, Family and domestic violence leave, pp 4, 18.

Case studies shared with the Independent Reviewer demonstrate the real and practical impact the entitlement is having on people's lives.⁶

Case study: DV West, written submission

'I supported an older woman client (who) said she wished the leave had been around years ago and she would not have had to wait until she is 75 to leave her violent husband.'

Case study: Australian Council of Trade Unions, written submission

'A mental health nurse working at a hospital accessed the full 10 days which enabled her to leave an abusive relationship. The member picked up an overtime shift at the hospital [and] made a call on her break to organise crisis accommodation where she went after her shift finished. The member was able to talk with her [manager] about it and that she would be taking 10 days' paid FDV leave starting the next day. The paid leave enabled her to access a \$5000 leaving violence grant and get set up in a new home.'

The government is encouraged that the paid FDV leave entitlement is supported by most stakeholders. While there is divergence on some details of the entitlement, this is an example of how government, employers and unions can find common ground on important issues affecting the Australian community, engage in tripartite dialogue and achieve better outcomes.

The Review heard general consensus that the current leave entitlement was 'appropriate and sufficient'.⁷ While some stakeholders put forward proposals to extend the entitlement, government agrees more time is needed to test and examine proposals, and there is value in providing workplaces with an opportunity to become familiar with existing settings before considering further change.⁸

Small business representatives called for further, specialised supports for small business owners to adapt to the changes and some raised concerns about financial impacts on business. Alternative funding models were proposed by some but ultimately not recommended by the Independent Reviewer.

The Review noted that some victim-survivors who are not employees, including sole traders and contractors, do not have access to paid FDV leave. While the Review did not provide any recommendations to address this issue within the workplace relations framework, they highlighted the importance of comprehensive and connected policies, systems and services, across government and non-government agencies, for addressing the entrenched nature of FDV and gender inequality.⁹

⁶ Flinders University, Independent review, pp 50, 61.

⁷ Flinders University, Independent review, p 78.

⁸ Flinders University, Independent review, Stakeholder positions and views, Appendix B: pp 108-117.

⁹ Flinders University, Independent review, p 81.

3. Ending violence in a generation requires integrated effort across all levels of government, and the workplace has a critical role to play

Review findings:

11. *Paid FDV leave is one of a range of strategies necessary to address FDV in Australia. Integrating paid FDV leave with broader community actions is critical to achieve the objective of ending gender-based violence in a generation*
12. *Societal and community attitudes provide a critical context for paid FDV leave and present barriers that inhibit its uptake*

All governments have committed to ending all forms of gender-based violence in one generation. This is an ambitious target set by the *National Plan to End Violence Against Women and Children 2022-32* (National Plan) that requires sustained action and investment from governments, businesses and workplaces, media, schools and educational institutions, the family, domestic and sexual violence sector, communities and all individuals.

The workplace's role and influence in this national effort cannot be underestimated.

3.1. Supporting women's economic security

Economic security gained through secure employment provides victim-survivors, particularly women, with crucial foundations to make decisions for their safety.

- Unemployment of victim-survivors may increase the risk of intimate partner homicides because workplaces can offer a site of intervention for FDV.¹⁰
- A lack of finances or financial support and fear of poverty are key reasons that victim-survivors of FDV return to violent partners or households.¹¹
- Leaving a violent relationship is costly for both the individual and government, averaging \$18,000 per person, with 50% of women who leave violent relationships relying on government benefits for their main source of income.¹²

The *Rapid Review of Prevention Approaches to end gender-based violence* (Rapid Review), initiated through National Cabinet, recognised government for legislating 10 days paid FDV leave as a National Employment Standard, among other important reforms focused on improving economic security. The Rapid Review noted that measures like these, which support

¹⁰ Australian Domestic and Family Violence Death Review Network, & Australia's National Research Organisation for Women's Safety (ANROWS), [Australian Domestic and Family Violence Death Review Network Data Report: Intimate Partner Violence Homicides 2010-2018](#), ANROWS website, 2022, accessed 17 December 2024, p 57.

¹¹ Australian Institute of Health and Welfare (AIHW), [Family, domestic and sexual violence economic and financial impacts](#), AIHW, Australian Government, updated 15 February 2024, accessed 17 December 2024.

¹² Family and domestic violence leave review 2021, [2022] FWCFB 0001 [Fair Work Commission decision]; A Summers, [The Choice: Violence or Poverty](#), Violence or poverty website, July 2022, accessed 17 December 2024, p 11.

women to stay in employment, are critical prevention levers against FDV.¹³ BETA's data confirmed the positive impact paid FDV leave is having in supporting economic security. Of the leave users surveyed, 91% reported paid FDV leave helped them maintain their income and 89% said it helped them maintain their employment.¹⁴

3.2. Shifting community attitudes and norms towards FDV

The government is encouraged by the Review's evidence that paid FDV leave is shifting and improving community attitudes and norms towards FDV and that workplaces are shifting to becoming a place where victim-survivors can feel supported to protect both their own safety and their dependent(s)' safety.¹⁵

BETA's survey of members of the Australian workforce found that making the new legislation salient to employees could assist in reducing workplace stigma and discrimination experienced by victim-survivors.¹⁶ There is great opportunity in this finding, both in promoting greater awareness around paid FDV leave and for future policies of government to better address FDV.

3.3. Maximising impact through greater integration

As detailed further in this response, there is work to do to increase awareness and understanding of the entitlement. The Review identified that sources of information for victim-survivors dealing with the impacts of FDV often arise through touch points such as FDV or community legal assistance services and health care clinics. It is important to invest broadly and take a holistic approach to FDV support to ensure supports are understood and readily available for victim-survivors.

¹³ E Campbell, T Fernando, L Gassner, J Hill, Z Seidler & A Summers, [Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence](#), Department of the Prime Minister and Cabinet website, August 2024, accessed 17 December 2024, pp 58-59.

¹⁴ BETA, Family and domestic violence leave, pp 4, 32.

¹⁵ Flinders University, Independent review, p 77.

¹⁶ N = 3008. Quotas based on Australian Bureau of Statistics data were utilised to ensure the sample was representative of the Australian workforce population as recruited through an online survey panel. BETA, Family and domestic violence leave, pp 4, 31 and BETA, [Supporting victim-survivors: The power of paid family and domestic violence leave entitlement to create more compassionate workplaces](#), BETA website, October 2024, accessed 10 January 2025.

Recommendation 5: *Initiatives to improve awareness and access to FDV leave must be integrated with broader community efforts to address FDV and gender inequality. For example:*

- *Education and training initiatives for first responders (and services that commonly interact with FDV victim-survivors) should include information on workplace entitlements and supports.*
- *Community actions to further the objectives of the National Plan should continue to recognise the role of the workplace in addressing and responding to FDV.*
- *Attention to issues of national consistency and importance, including a harmonised definition of FDV, should continue to be prioritised.*

The government **agrees** to this recommendation.

3.4. The national response to end gender-based violence and improve economic security for women

Paid FDV leave is just one of many actions the government has taken towards the target of ending gender-based violence in one generation as established in the National Plan. The National Plan outlines this vision across 4 domains: prevention, early intervention, response and recovery and healing. This government has invested \$4 billion in these domains across the 3 budgets it has delivered.

Paid FDV leave has a role in shifting attitudes towards gender inequality, gender-based violence and improving women's economic security. *Working for Women: A Strategy for Gender Equality* outlines the government's vision for gender equality in Australia and sets out the vast range of initiatives government has delivered, and continues to work on, to address gender-based violence and promote economic equality and security for women, among other key priorities. *Working for Women* recognises the link between gender-based violence and economic equality and security. Experiences of violence are often a driver of economic inequality, and vice versa, for people escaping and recovering from violence.

Since the government's election, the gender pay gap has progressively fallen to a record low of 11.5% as at May 2024 with women's average weekly earnings increasing \$173.80 a week since May 2022.¹⁷ Government is committed to continuing to use its levers to create safe, secure and flexible workplaces, support equitable access to education and skills building, and remove disincentives and inequities that perpetuate occupational and industrial gender segregation and sustained pay and wealth gaps.

¹⁷ Department of the Prime Minister and Cabinet, [Gender pay gap drops to historic low](#) [media release], Australian Government, 15 August 2024, accessed 16 January 2025.

3.5. Integrating paid FDV leave in the national response

To better support first responders, who interact with those at risk of, or experiencing FDV, the government supports opportunities to promote paid FDV leave through relevant training programs funded by the Commonwealth:

- 1800RESPECT will continue to promote paid FDV leave resources on its website, social media and through its counselling services.
- Revised DV-alert training (targeting health, allied health and community frontline workers) will include information on paid FDV leave.
- Revised Gender and Disaster Recovery program training (targeting first responders) will include reference to paid FDV leave.
- Future versions of the Accredited Training for Sexual Violence Response program will consider how paid FDV leave can be incorporated, noting while not all victim-survivors of sexual violence are eligible for paid FDV leave, sexual violence and FDV are often intertwined.
- Through the Enhanced Training for Law Enforcement in Family, Domestic and Sexual Violence measure led by the Attorney-General's Department, consideration will be given to how information and resources can be shared to improve awareness and access to paid FDV leave provisions to police across all jurisdictions.

The government will also continue to promote and share information on paid FDV leave with Commonwealth-funded providers, which have direct contact with victim-survivors.

3.6. Collaboration across governments

The National Plan notes the importance of pursuing greater alignment and consistency of definitions related to FDV to support a shared understanding of, and consistent response to, gender-based violence. In September 2023 the Standing Council of Attorneys-General released the National Principles to Address Coercive Control in FDV to create a shared national understanding of coercive control. This was an important first step in the complex process of working towards harmonisation of definitions and concepts related to gender-based violence.

On 6 September 2024, National Cabinet convened and agreed to a comprehensive \$4.7 billion funding package to accelerate action to end gender-based violence and support to legal services. The Commonwealth contribution to this investment is \$4.4 billion. As part of this package, National Cabinet agreed to several initiatives to strengthen early intervention capability to stop violence escalating, including the development of new national best-practice FDV risk assessment principles and a model best-practice risk assessment framework. This work builds upon the 1 May 2024 National Cabinet meeting to drive national consistency and best practice approaches across jurisdictions.

The package agreed by National Cabinet also includes the development of national, evidence-based standards for men's behaviour change programs, to ensure that intervention programs delivered by services who work with men at risk of using violence are successful and meet consistent best practice requirements.

The government will continue to engage with state and territory governments to progress this work noting its importance for improving the safety of victim-survivors, particularly for First Nations people.

4. At this early stage, continued focus is needed on raising awareness and integrating paid FDV leave as an ordinary workplace practice

Review findings:

3. *The full impacts of the paid FDV leave entitlement, particularly for small business, are not yet known*
4. *Utilisation of paid FDV leave remains low*
5. *Limited awareness among employees and employers contributes to low utilisation of paid FDV leave*
6. *Uncertainty and misconceptions about evidentiary requirements are a continuing concern for employers and employees*
7. *Small businesses continue to call for support with implementing the entitlement*
8. *Everyone has a role to play in improving the awareness and utilisation of the paid FDV leave entitlement*

4.1. Low uptake of paid FDV leave

The government recognises that while paid FDV leave has made a difference to those who have used it, uptake is low. Consistent with BETA's research (which found 13% of surveyed victim-survivors had accessed the leave, and 12% of surveyed businesses had granted it), stakeholders who contributed to the Review were unanimous that utilisation of the leave was low.¹⁸

The Fair Work Commission previously anticipated there would be low uptake of a paid FDV leave entitlement, describing it as a 'needs based entitlement' and use of the leave as a 'low incidence, high consequence' event.¹⁹ However, BETA's findings that 45% of the surveyed victim-survivors reported they had taken another form of paid or unpaid leave or cancelled their own shifts to deal with FDV instead of taking paid FDV leave indicates the entitlement is not being utilised to the extent it could be.²⁰ BETA described this as 'unmet need'.

¹⁸ BETA, Family and domestic violence leave, p 16.

¹⁹ Family and domestic violence leave review 2021, [2022] FWCFB 2001 [Fair Work Commission decision].

²⁰ BETA, Family and domestic violence leave, p 18.

Low uptake can be broadly attributed to two factors:

- lack of awareness, with 59% of surveyed victim-survivors and 42% of businesses unaware of the entitlement²¹
- employees not wanting to disclose experiences of FDV to employers, for reasons including potential negative impacts to their career, fear of repercussions from their perpetrator, confidentiality or privacy concerns, or wanting to keep FDV separate from work.²²

BETA found a correlation between victim-survivor's rating of trust in their manager and uptake of paid FDV leave, with those who had taken paid FDV leave rating their manager as more trustworthy, and that victim-survivors felt more supported when managers were already aware of the leave entitlement and had systems in place.²³ Research by Monash University affirms this, suggesting the use of paid FDV leave is 'inhibited by social stigma and shame' and the operation of FDV policies and entitlements are 'null' in workplaces that do not have a safe and supportive culture.²⁴

4.2. Calls for further guidance and support

Workplaces, particularly small businesses, identified the need for further support to embed this entitlement as an understood feature of the workplace relations framework. Government recognises small businesses may face additional challenges in implementing the entitlement where they lack access to dedicated HR advice and require clear and unambiguous guidance. The legislative settings around evidence collection, confidentiality and record keeping were identified as particularly unclear for employees and employers alike.

The Review found the existing guidance should be reviewed to clarify that employers are permitted, but not required by law, to ask for evidence for a request for paid FDV leave. The Review found an improved understanding of the types of evidence that may be produced in demonstrating eligibility, including more informal forms of evidence, would be beneficial.

The evidence from the Review is clear, efforts to educate, train and raise awareness need to continue. To be as effective as possible everyone needs to recognise their role – governments, employers, employer representatives, unions, the FDV sector and essential services that provide front-line supports to victim-survivors.

Education efforts going forward should focus on both understanding the elements of the entitlement and what can be done to reduce stigma around FDV within workplaces and to educate managers to handle disclosures of FDV sensitively and confidentially. Part of workers' hesitation to access the entitlement is due to shame and fear of repercussions. A whole-of-society effort is required to break down these cultural barriers to utilisation. The workplace has an essential and influential role in driving attitudinal change in addressing FDV.

²¹ BETA, Family and domestic violence leave, pp 4, 21 & 27.

²² BETA, Family and domestic violence leave, pp 20-25.

²³ BETA, Family and domestic violence leave, pp 20-22.

²⁴ Family and domestic violence leave review 2021, [2022] FWCFB 2001 [Fair Work Commission decision].

Recommendation 2: Existing resources should be improved and promoted, with a particular focus on small business and resources that speak to employees, including:

- Re-consider and revise existing government resources with a particular focus on areas of uncertainty including the interpretation of evidentiary requirements, management of confidentiality, and application of the entitlement to casual employees and employees requesting leave to care for others.
- Relaunch and invest in continuing development of the www.10DayspaidFDVLeave.com website, the 'one-stop shop' hub for small business.
- Consider targeting information through identified channels of communication that are regularly accessed by small business owners and the community (such as social media).
- Consider ways to normalise FDV leave within the context of broader workplace relations messaging.

The government **agrees** to this recommendation.

The government will continue its efforts to raise awareness and understanding of the entitlement. This builds on the commitment of \$3.4 million in the October 2022-23 Budget which delivered targeted resources to assist small businesses with implementing the entitlement and commissioning the Independent Review. Through this funding:

- The Fair Work Ombudsman:
 - updated its resources and developed new resources, particularly for small business, including the 'Small Business Employer Guide to FDV'. Resources were developed in consultation with small business, advocacy and employee representatives
 - published dedicated FDV website content outlining the entitlement, how to take the leave, notice and evidence requirements and a paid FDV leave fact sheet, which includes a series of case studies to help understand and apply the new entitlement
 - published professionally translated material covering paid FDV leave (in 16 languages) as well updated its automated website translator with professionally translated versions of FDV-related terms and phrases (in over 30 languages).
 - conducted two advertising campaigns (including in-language communications) to inform the community about the commencement of paid FDV leave targeting non-small business (23 January – 14 February 2023) and small business (18 July – 15 August 2023) audiences.
- The 10dayspaidfdvleave.com.au website was created and is dedicated to help small businesses administer the leave and manage associated concerns. The website was developed by independent organisation Transitioning Well, in partnership with small business peak bodies, FDV sector experts and lived experience consultants.
- The Small Business, Big Impact podcast, developed by the Department of Social Services and Lifeline Australia along with small business peak bodies, FDV experts and unions, consists of 10 episodes on topics related to FDV, each being 10-20 minutes long.

4.3. Promotion of existing resources

To build better awareness and understanding of this entitlement, the government will revisit and promote the existing resources detailed above, including by:

- continuing promotion and distribution of the Fair Work Ombudsman's guidance through social media, email communications, webinars and stakeholder engagements including with community organisations in 2025
- further promotion of the Fair Work Ombudsman's online learning courses which include information on the paid entitlement and pay slip obligations, in particular the *Difficult conversations in the workplace* online courses which provide pathways for small business employers and affected employees to support services and tips for having sensitive conversations at work about FDV
- re-promoting resources produced specifically to assist small businesses in understanding and implementing the leave including the Small Business, Big Impact podcast and www.10dayspaidfdvleave.com.

4.4. Clarify areas of ambiguity

The government is committed to addressing areas of ambiguity identified by the Review in relation to evidence and confidentiality requirements so the policy intent is achieved. Supporting businesses to effectively and safely handle sensitive disclosures of FDV will build trust and confidence between employers and employees, providing a safe environment for those who need the leave to access it.

To address this, the Fair Work Ombudsman continues to review its guidance on paid FDV leave to ensure it remains fit for purpose with a particular focus on resources that detail the evidentiary and confidentiality requirements.

4.5. An integrated approach

The Review identified that effective awareness raising of paid FDV leave requires tapping into multiple channels and ensuring frontline FDV support services are equipped to inform victim-survivors of their workplace rights and entitlements. As outlined in response to Recommendations 3 and 5, the government will focus on integrating paid FDV leave awareness with broader channels of FDV support.

Recommendation 3: *Harness the intelligence and advocacy of unions, employer representatives and small business peak bodies to continue training and awareness-raising initiatives and report back to Government on progress and emerging barriers.*

The government **agrees** to this recommendation.

The Review noted and commended work undertaken by employer and small business representatives and unions in raising awareness and understanding of the entitlement with their memberships. Representative bodies have the unique ability to reach into workplaces and provide invaluable targeted and relevant supports.

The government is committed to continue engaging with unions and employer groups to hear their valuable insights on the implementation and utilisation of paid FDV leave and adopting strategies to increase awareness and accessibility of the entitlement.

The Minister for Employment and Workplace Relations met with members of the National Workplace Relations Consultative Committee following the release of the Review to continue the conversation on strategies to improve awareness and access. Government will continue to work with the representatives on this tripartite committee to deliver this recommendation.

The government also funds key representative union and employer organisations through the Productivity, Education and Training fund which provides grant funding to develop, among other things, education and training initiatives to support members engage in law reform process and encourage understanding of current and new laws. The 2024-25 Budget provided an additional \$60 million over 4 years to eligible recipients. The Department of Employment and Workplace Relations, as the administrator of the Productivity and Education Training fund, is working with grant recipients to identify opportunities to use funding to deliver on the findings of the Review.

5. There is a need to focus efforts on priority cohorts

Review findings:

- 9. *Casual employees are less aware of, and less likely to access, paid FDV leave*
- 10. *The utility of the entitlement for particular population groups of victim-survivors requires closer consideration*

5.1. Heightened barriers to access for priority cohorts

Challenges in accessing paid FDV leave are heightened for cohorts where there are differing and additional sensitivities, including stigma around FDV. The Review identified people within these cohorts as:

- Casual workers
- First Nations workers
- CALD workers
- LGBTQIA+ workers
- people living and working with disability
- workers in regional, rural and remote communities.

The government acknowledges there may be cohorts beyond those identified in the Review that face unique barriers to accessing paid FDV leave. For example, BETA found uptake by young workers (i.e. those aged <18 years) was also affected by a lack of clarity on how requirements for accessing paid FDV leave interact with child welfare mandatory reporting requirements.²⁵

²⁵ BETA, Family and domestic violence leave, p 26.

While the challenges are many and integrated in societal norms, some identified factors contributing to the underutilisation of paid FDV leave by these cohorts include:

- language and cultural barriers impeding employees from having conversations about accessing entitlements
- difficulties in taking leave discreetly and maintaining confidentiality in small regional and remote communities, including First Nations communities
- perception that FDV is a private issue that should not be disclosed
- heightened shame and stigma
- fewer avenues for, and access to support
- fewer guidance materials available in language and through familiar channels.

The National Plan acknowledges some cohorts experience disproportionate and unique forms of gender-based violence. Cohorts detailed in the National Plan include Aboriginal and Torres Strait Islander women and children, women with disability, LGBTIQ+ people and women and children from culturally diverse, migrant and refugee backgrounds. The National Plan takes an intersectional approach to addressing gender-based violence, which is critical to success across all efforts. This approach recognises that violence and abuse exist in relation to multiple and intersecting structural and systemic forms of discrimination, such as racism, colonialism, ableism, homophobia, biphobia, transphobia and ageism.

The Aboriginal and Torres Strait Islander Action Plan 2023-2025 under the National Plan provides the framework for culturally appropriate responses implemented across all levels of government to end violence against First Nations peoples. Diverse experiences are acknowledged including women, girls, men, boys, Elders, Stolen Generations, people living remotely, people with disability and LGBTIQ+ Sistergirl and Brotherboy communities.

While the Review noted generic guidance was unlikely to capture the nuances required for culturally sensitive conversations and interactions related to FDV, accessible information, provided by FDV specialists with expertise in working with the groups identified by the Review, remains an important element of broader sustained efforts to address some of the systemic barriers experienced by these priority cohorts.

5.2. Awareness and administration for casual employees

Paid FDV leave provides a landmark paid leave entitlement to casual employees, as this is the first time a national entitlement to paid leave in the National Employment Standards has extended to casuals. When tested against the principle that no employee should have to choose between their pay and safety, it was an important policy setting – recognising the common occurrence that women in violent relationships, if in the workforce, are often in precarious or insecure employment.²⁶

²⁶ Seymour et al, *Family and Domestic Violence Leave Entitlement in Australia: A Systemic Review* (2021), Social Work Innovation Research Living Space, Flinders University, 3 November 2021, Fair Work Commission website, accessed 10 January 2025, pp 1, 5 & 7.

The evidence shows casual employees are less aware of, and less likely to access paid FDV leave.²⁷ Employers are also requiring some time to adapt to the administrative requirements of the leave, including navigating providing a paid leave entitlement for rostered shifts.²⁸

The Review found that concern about adverse consequences as a result of making a disclosure of FDV were more acute for casual, than non-casual, employees, likely reflecting the more precarious and insecure nature of their employment.²⁹ BETA found that casuals were more likely to appraise their relationship with their manager poorly, which is a key determinant of employees accessing the entitlement.³⁰ Strengthening the ability of employees in insecure work to assert their workplace rights goes to the heart of the government's ongoing commitment to promote efforts to address job security through a fairer workplace relations system.

Recommendation 4: Any response by government to enhance resources should tap into existing distribution networks and focus on priority groups of employees including:

- casual workers
- First Nations and CALD workers
- LGBTQIA+ workers
- people living and working with disability
- workers in regional, rural and remote communities.

The government **agrees** to this recommendation.

5.3. The national response to addressing inequalities

The National Plan recognises women and children are not a homogenous group. They have many and varied personal identities, backgrounds, experiences and social positions, and activities to end gender-based violence must reflect this. The *First Action Plan 2023-2027* provides a roadmap for the first 5-year effort towards achieving the vision of the National Plan. It sets out the initial scope of activities, areas for action and responsibility with respect to outcomes, and outlines how commitments set out in the National Plan will be realised.

Addressing the disproportionate impacts of FDV for Aboriginal and Torres Strait Islander people is a priority for government. The government invested \$91 million to support implementation of several measures supporting this work via the *Aboriginal and Torres Strait Islander Action Plan 2023–2025*. These measures seek to address the immediate needs of Aboriginal and Torres Strait Islander women and children experiencing FDV, as well as healing and prevention programs for men. These include programs delivered by Aboriginal and Torres Strait Islander Community-Controlled and Indigenous-led organisations to centre First Nations culture and knowledge into frameworks and responses.

²⁷ BETA, Family and domestic violence leave, pp 5, 14, 16-17.

²⁸ BETA, Family and domestic violence leave, p 39.

²⁹ Flinders University, Independent review, p 90.

³⁰ BETA, Family and domestic violence leave, p 54.

5.4. Targeting paid FDV leave resources to priority cohorts

More needs to be done to ensure paid FDV leave is better understood and accessed by priority groups identified in the Review.

The Review considered the Fair Work Ombudsman did not have specific support on paid FDV leave for First Nations employees, nor materials to enhance employers' understanding of cultural sensitivities which may impact First Nations employees taking paid FDV leave.

To address concerns about the limited specific support available for First Nations employees about paid FDV leave, the Fair Work Ombudsman is considering, in consultation with First Nations organisations and peoples, developing a paid FDV leave resource for First Nations communities. The Fair Work Ombudsman already include information about paid FDV leave in a number of dedicated First Nations resources, including:

- a guide to starting a new job
- a guide to fixing workplace problems with your boss
- flexible working arrangements fact sheet.

The government will continue to support CALD workers to ensure they are aware of and able to access the entitlement. As the Review acknowledged, the Fair Work Ombudsman's paid FDV leave guidance is available in 16 languages other than English. To promote the Fair Work Ombudsman's guidance material two paid campaigns, which included in-language messaging in five languages other than English were run, with one targeting non-small businesses and the other small business employers and employees. The campaigns collectively generated 31.4 million views of campaign messages, including 10.5 million views of in-language messages.

Development of government resources will continue to address opportunities to support CALD employees, including through discussion with their representative organisations to investigate how supports can integrate cultural considerations.

The Fair Work Ombudsman will review the hypothetical examples in its paid FDV leave materials with the view to consider new examples to ensure a diverse range of people are represented.

5.5. Resources and legislative changes to support casual workers

Noting the finding that more time is needed for increasing familiarity with the entitlement, the government is committed to focusing guidance and education efforts towards casual employees.

The government is committed to reducing insecure employment by providing casual employees with a path to secure and ongoing employment, as established under the *Fair Work Legislation Amendment (Closing Loopholes (no.2) Act 2024*. Similarly, in recognition of the fear victim-survivors may have regarding adverse action from their employer after disclosing experience of FDV, the government amended the *Fair Work Act 2009* to include 'subjection to FDV' in the list of protected attributes. This means it is now unlawful for an employer to take adverse action against an employee (such as dismissal or reducing hours and shifts) because they have been, or are being, subjected to FDV.

For casuals, the Fair Work Ombudsman provides information about paid FDV leave via dedicated website content and resources including the *Family and domestic violence leave factsheet*, which provides information and case studies for casual employees. To achieve greater awareness of paid FDV leave among casual employees, the Fair Work Ombudsman will:

- incorporate paid FDV leave information into a new casual FAQs resource being developed for casual employees
- review and update existing website content and pathways to emphasise the casual entitlement to paid FDV leave, for example, via new illustrative examples and proactive updates to existing website tools, such as the chatbot
- consider at its next review point of the Casual Employment Information Sheet (CEIS), the opportunity to increase awareness of the paid FDV leave entitlement for casual employees through the CEIS, to complement information on paid FDV leave already in the Fair Work Information Statement (FWIS)³¹
- explore opportunities for promoting information in forums with industries that are likely to attract a high volume of casual employees.

6. Government is committed to ongoing consideration of this entitlement and other opportunities to strengthen women's economic equality

6.1. The national commitment to build the evidence base

As established in the National Plan, the government is committed to building a comprehensive evidence base for the development and implementation of measures to address gender-based violence. Strengthening the evidence base is key to understanding and developing effective initiatives that address and respond to FDV, including providing services and support to victim-survivors and holding perpetrators accountable.

The Domestic, Family and Sexual Violence Commission's *Yearly Report to Parliament* commended the breadth of work underway by government to improve the dataset and strengthen the evidence base for FDV. The report noted that there is more to be done and building the evidence base is central to successful implementation of the National Plan.

Building the evidence base for FDV needs to be balanced against the need for data collection to incorporate sufficient safeguards to protect victim-survivors' privacy, be trauma-informed and not have unintended consequences that could jeopardise safety. The paid FDV leave entitlement was legislated with additional safeguards to protect victim-survivors' privacy and confidentiality. These safeguards, while necessary, increase the challenges in collecting nationally representative data on leave use and impact.

³¹ The CEIS provides new, and ongoing casual employees with information about their conditions of employment which all new casual employees must receive from their employer when they start a new job and again at specified intervals throughout their employment.

6.2. Evaluating reforms

The Review was an opportunity to test the operation of the entitlement early after its passage to support government to understand the impact and address any unintended consequences. The Review was supported by targeted qualitative and quantitative research which provided valuable evidence confirming stakeholder perspectives on the impact and barriers to access.

The Review found the short period of time since the entitlement came into force limited the ability to collect nationally representative data on paid FDV leave utilisation and data to determine how many people in the workforce are experiencing FDV.

Recommendation 1: *Ongoing evaluation and stakeholder consultation is needed to develop the evidence base on paid FDV leave. As familiarity with the entitlement increases, continued opportunities for stakeholder engagement are important to inform proposals for further reform.*

The government **agrees** to this recommendation.

6.3. Building the evidence base

The government is committed to exploring ongoing opportunities to develop the evidence base on paid FDV leave, while balancing important ethical, legal and confidentiality considerations.

The Workplace Gender Equality Agency's (WGEA) annual census of employers with 100 or more employees incorporates questions about the existence of FDV policies and other measures to understand workplace supports for people experiencing FDV. The annual census also asks employers whether they provide access to paid and unpaid FDV leave, and if so, how many days. This data provides valuable insights into employers' broader responses to FDV.

WGEA's 2023-24 census (for private sector employees) included voluntary questions about paid FDV leave utilisation. The results were not available at the time the Review was being undertaken but have since been shared with relevant government agencies. Of the 35% of employers that responded to these questions (2,611 employers with a total of 1.48 million employees):

- 1,165 employers indicated that some of their employees have taken paid FDV leave in the last 12 months
- 6,523 employees were reported to have taken the leave in the last 12 months
- the average amount of leave taken per employee who accessed paid FDV leave was 4.7 days
- 1,110 employees were reported as taking all the days they were entitled to in the last 12 months.

Noting the obligation on employers to keep information about an employee's situation confidential and the employee's right to privacy, the government will continue to explore opportunities to understand utilisation through relevant data sources, including the WGEA annual census, to support evaluation of paid FDV leave.

6.4. Commitment to ongoing evaluation

The government is committed to continuing to evaluate this entitlement and consider proposals for legislative reform once more time has passed since commencement. To facilitate this, the government commits to consider other existing avenues for further evaluation.

This includes through existing evaluation of workplace relations reforms to support employees experiencing FDV as a part of the upcoming statutory reviews of Closing Loopholes legislation. This will allow ongoing progress of the paid FDV leave entitlement to be considered alongside amendments that made subjection to FDV a protected attribute in the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* and amendments to casual employment provisions in the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*.

The government notes the Domestic, Family and Sexual Violence Commission has been established with functions aimed at:

- promoting and monitoring the National Plan
- amplifying the voices of lived and living experience
- promoting connection and collaboration between government and stakeholders
- providing strategic advice to government.

The Commission's Yearly Report to Parliament is a key mechanism for reporting on progress towards the objectives of the National Plan. This includes consideration of the impact of initiatives intended to prevent and respond to family violence. The government will continue to support the Commission's function and oversight role of the National Plan to ensure paid FDV leave remains connected with the broader efforts of the National Plan.