

Member Presentation 'Right To Disconnect'

Acknowledgement

We acknowledge the Traditional Owners of the land on which we meet today and pay respect to Elders past, present and emerging.

We also extend that respect to Aboriginal and/or Torres Strait Islander people who are with us today.

What is the 'Right to Disconnect'?

The Fair Work Legislation Amendment ([Closing Loopholes No. 2](#)) Act 2024 introduces a high-level right to disconnect for all national system employees into Part 2-9 of the Fair Work Act 2009 (the Act).

Employees will now have a right to not respond to contact from their employer outside of their working hours, unless doing so is unreasonable.

The right to disconnect will inform how employers and employees interact outside of working hours. The right does not prohibit employers from contacting their employees, nor does it prevent employees from contacting one another, including across time zones. Rather, the employee will be able to refuse to monitor, read or respond to contact, or attempted contact outside of working hours, when they are not expected to be working or paid to be working, so long as doing so is not unreasonable.

There are factors to help determine whether an employee's refusal to monitor, read or respond to contact is unreasonable. These non-exhaustive factors include:

- ⦿ the reason for the contact or attempted contact
- ⦿ the method of contact and level of disruption it causes the employee
- ⦿ whether the employee is being compensated to remain available or perform additional work outside ordinary hours
- ⦿ the nature of the employee's role and the employee's level of responsibility, and
- ⦿ the employee's personal circumstances (including family or caring responsibilities).
- ⦿ Other factors can be considered, like patterns of behaviour.
- ⦿ Employees' right to refuse employer or work-related contact (or attempted contact) out of hours will be a workplace right, so the [general protections](#) in the Act will apply.

When does the new legislation come into effect?

Effective 26 August 2024 for non-small business employers (15+ emps) and 26 August 2025 for small business employers (15- emps):

- ⦿ Eligible employees will be given a new 'right to disconnect' outside of work hours.
- ⦿ Employees will have the right to refuse to monitor, read or respond to contact (or attempted contact) from an employer or a third party outside their working hours, unless that refusal is unreasonable.
- ⦿ Rules will apply when determining whether an employee's refusal is unreasonable or not.
- ⦿ Employers and employees will be able to go to the Commission to seek orders on this right.

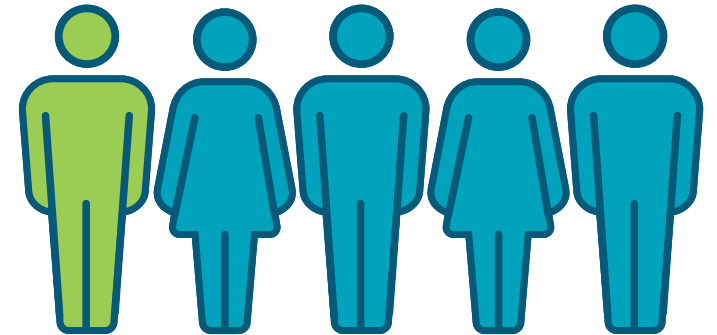
Mental Health & Wellness at Work

In light of the incoming laws around 'The right to disconnect' we must address mental health and wellness at work. In today's fast-paced business environment, attracting and retaining top talent is more crucial than ever; yet many companies overlook a critical factor in achieving this goal: prioritising and creating real tangible policies to ensure good mental health and wellbeing of their employees.

The Cost of Neglect:

According to the [Australian Human Rights Commission](#), over one in five adults will experience a mental illness in any given year.

Presenteeism, where employees are physically present but mentally checked out, is estimated to cost billions annually.



The Benefits of Well-being:

The good news is, investing in mental health has long-lasting benefits:

- ⦿ **Increased Productivity & Engagement:** When mental well-being is prioritised, employees are better equipped to focus, be creative, and deliver their best work.
- ⦿ **Improved Retention & Talent Acquisition:** Employees are more likely to stay with a company that invests in their well-being, reducing costly turnover and recruitment processes.
- ⦿ **Enhanced Company Culture & Employer Brand:** Demonstrating your commitment to your employees as people, not just workers, gives you a competitive brand edge and will put you in front of your competitors.
- ⦿ **Reduced Sick Leave & Health Costs:** Promoting healthy habits and early intervention can lower healthcare costs and sick leave entitlements for your team.

Building a Culture of Wellbeing: Actionable Steps for Leaders:

Here are some actionable steps leaders and employers can take to foster a workplace of wellbeing for their team:

- ⦿ **Shifting the Conversation:** Encourage regular conversations about mental health, and look to appoint a mental health champion that other employees seem to confide in. This normalises the topic and creates a safe space for open discussion and seeking help.
- ⦿ **Creating a Supportive Environment:** Promote work-life balance with flexible work arrangements and breaks, fostering a culture of respect through anti-discrimination and anti-bullying policies. This ensures a healthy and inclusive environment where employees can thrive.
- ⦿ **Investing in Resources:** Provide training on stress management and mental health awareness to empower your team. Go beyond training by offering access to external counselling & wellness resources. Consider meditation apps or sponsored fitness programs. This approach demonstrates your investment in a healthy and thriving workforce.

The Bottom Line: A Win-Win Proposition

Investing in mental health fosters positive outcomes: greater productivity, reduced absenteeism, and a more engaged and loyal workforce. This translates directly to a thriving business culture and a competitive edge. Don't forget to outline these initiatives when interviewing and onboarding new team members, it's important!

“It is crucial that we respect our employees' right to refuse after-hours work-related contact, ensuring a healthy work-life balance. By updating our position descriptions to accurately reflect the expectations regarding out-of-hours communication and responsibilities, we can demonstrate our commitment to compliance and employee well-being.

These laws underscore the significance of maintaining up-to-date position descriptions, employee handbooks and internal policies that clearly outline the nature of roles requiring after-hours availability, contributing to a transparent and respectful work environment.

It's a great idea to conduct internal training sessions on 'switching off' and reiterate the expectations around work hours and downtime.”

Resources Links

- ⦿ [Right to disconnect - Department of Employment and Workplace Relations, Australian Government \(dewr.gov.au\)](https://dewr.gov.au)
- ⦿ [Closing Loopholes: Additional Fair Work Act changes - Fair Work Ombudsman](#)
- ⦿ [What are the general protections? | Fair Work Commission \(fwc.gov.au\)](https://fwc.gov.au)

3 interesting articles below:

- ⦿ [Closing loopholes bill: the right to disconnect and five other changes coming to Australian Workplaces | Industrial relations | The Guardian](#)
- ⦿ [Right to disconnect Australia: Business' guide to the new IR laws \(afr.com\)](https://afr.com)
- ⦿ [February 2024 \(ahri.com.au\)](https://ahri.com.au)



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