

Right to Disconnect – Know Your Rights

Employees who work for businesses with more than 15 employees have what is called a right to disconnect.

This means they can refuse to monitor, read or respond to contact (or attempted contact) outside their working hours, unless doing so is unreasonable.

This includes contact (or attempted contact) from an employer or a third party.

TIP

- Third party could include clients, suppliers, staff from other businesses, or members of the public.
- Contact could include a range of communication channels used to engage with employees, such as calls, emails, texts, social media and messaging services.

MYTH

- An employer can't contact an employee outside working hours
- The right to disconnect rules don't make it unlawful for an employer to contact an employee outside working hours. Instead, they give employees a right to refuse to monitor, read or respond to the contact, unless doing so is unreasonable.
- It's important to remember that the focus is on whether the employee's refusal was unreasonable.

When working out whether an employee's refusal is unreasonable, the following factors must be considered:

- the reason for the contact
- how the contact is made and how disruptive it is to the employee
- how much the employee is compensated or paid extra for:
- being available to perform work during the period they're contacted, or
- working additional hours outside their ordinary hours of work
- the employee's role in the business and level of responsibility
- the employee's personal circumstances, including family or caring responsibilities.

Other matters may also be considered.

FINAL TIPS

Employers and employees should discuss any form of out of hours contact and set expectations that suit the workplace and the employee's role preferably prior to it occurring.

A discussion about out of hours contact could include:

- When the employee may be expected to monitor, read or respond to contact

It's important employees know when they can disconnect from work and when they may be expected to monitor, read or respond to contact.

There may also be particular pay and conditions that relate to out of hours contact and its therefore important to check your award or agreement for any entitlements that may apply.