

Flexible Working Arrangements

Certain employees who have worked for the same employer for at least 12 months can request flexible working arrangements. Employers are only permitted to refuse these requests on reasonable business grounds.

What are flexible working arrangements?

Examples of flexible working arrangements include changes to:

- Hours of work – e.g. flexible start and finish times or compressed hours.
- Work patterns – e.g. part-time work, job-sharing or flexible rostering.
- Work location – e.g. working from home or another location.

Who can request flexible working arrangements?

Full-time and part-time employees can request flexible working arrangements if they've worked with the same employer for at least 12 months and:

- Are the parent, or have responsibility for the care, of a child who is school aged or younger;
- Are a carer under the *Carer Recognition Act 2010*;
- Have a disability;
- Are 55 or older;
- Are pregnant;
- Are experiencing family or domestic violence; or
- Provide care or support to a member of their household or immediate family who is experiencing family and/or domestic violence.

Casual employees can request flexible working arrangements if:

- They meet one of the above criteria (such as having a disability, being a carer or being pregnant);

- They have worked for the same employer regularly and systematically for at least 12 months; and
- There is a reasonable expectation of continuing work with the employer on a regular and systematic basis.

How to request flexible working arrangements

All requests should be submitted in writing to your manager. The written request should detail what changes are being asked for and provide an explanation for the requested changes.

Upon receiving a request for flexible working arrangements, the manager should arrange a meeting with their employee to discuss the proposed changes and try to reach an agreement, considering:

- The needs of the employee;
- The consequences for the employee if the changes are not made; and
- The impact on the business including any reasonable grounds for refusing the request.

Managers who receive a request for flexible working arrangements must give a written response within 21 days, advising whether the request is granted or refused.

Employers and employees can agree to working arrangements that are different from what the employee had originally requested. Where this happens, the employer needs to confirm the agreed changes in writing within 21 days of getting the employee's original request.

A request can only be refused on reasonable business grounds. If a request is refused, the written response must include the reasons for the refusal.

What are reasonable business grounds for refusing a request?

Reasonable business grounds for refusing a flexible working arrangement include:

- The requested arrangements are too costly;
- Other employees' working arrangements cannot be changed to accommodate the request;
- It is impractical to change other employees' working arrangements or hire new employees to accommodate the request; and
- The request is likely to result in a significant loss in efficiency or productivity or have a significant negative impact on customer service.

Employers should also refer to the relevant Award(s), if applicable, as some contain further information on what needs to be included in the written response if a request is refused, or if a different change in working arrangements is agreed upon.

What needs to be included in a refusal response?

When an employer refuses a request, the written response needs to include:

- The reasons for the refusal, including an explanation of the grounds for refusing and how they apply to the request;
- Other changes the employer is willing to make or a statement that there aren't any other changes that can be made; and
- Information about getting help from the Fair Work Commission for disputes about flexible working arrangements.

What if the employer and employee can't resolve a dispute about flexible working arrangements?

If the employer and employee can't resolve a dispute about flexible working arrangements, they can apply to the Fair Work Commission (the Commission) for help.

The Commission can hear disputes about flexible working arrangement requests and make orders to resolve disputes. This includes if the employer:

- Refuses an employee's request; or

- Doesn't respond to a request within 21 days.

The Commission will usually attempt to resolve the dispute using conciliation or mediation first. This is a less formal process involving discussions between an employer and employee to resolve the dispute.

If there isn't a resolution, the Commission can arbitrate the dispute. This is a more formal process where employers and employees can present evidence and arguments. The Commission makes binding orders that employees and employers need to comply with.

State and Territory Laws

If a state or territory law provides an employee with a better entitlement to flexible working arrangements, that law will continue to apply.

