

# Flexible working policy guidance

## What to include in a flexible working policy

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This policy guidance and supporting documents have been written to assist NSW government sector agencies in their implementation of flexible working and were developed by a cross-cluster working group. Agencies may use this guidance and examples to consider current practice and adapt it to their business context and industrial arrangements.

### Example flexible working policy

[Download an example policy](#) →

## Discuss flexible working with your employees

- Discuss with employees the development of your flexible working policy and strategies to ensure they match organisational and employee needs, in order to achieve desired results.

- To find out what the most important flexible working opportunities are in your workplace, talk to existing employee networks, analyse your employee survey results or conduct focus groups with groups of employees/teams and review data.

## Outline your organisation's policy objectives and purpose

- Your policy should start by outlining your organisation's aims in creating the policy.
- Explain why flexible working is important to your business, helps you to do business and better achieve outcomes.

## Explain what you mean by flexible working

- Set out what flexible working means for your organisation and what options may be available for employees.
- Emphasise that flexibility can relate to where, when and how work is conducted. It relates to flexibility in time, leave, place, and choice, which improves the performance and wellbeing of organisations, teams and individuals.
- Flexible working can be ad-hoc, short term or long term.
- The approach to flexible working should be dynamic, adapting to the changing needs of individuals, their teams and their organisation as these arise. Note that successful arrangements are those in equilibrium, balancing the needs of the organisation, teams and the individual.
- Not all types of flexible working will be possible in all organisations, depending on their industrial arrangements; organisations can adapt their policy to the types of flexible working available in the organisation's business context and aligned with its local arrangements.

## Outline the principles your organisation will apply to flexible working

- Outline the flexible working principles relevant to your organisation. The implementation of flexible work is guided by your principles. These could include:
  - For everyone – everyone is able to request the types of flexibility that make sense within their roles
  - Mutually beneficial – for flexible working to be successful, it must create the best outcome for employees, employers and customers
  - About the team – arrangements should consider the impact on team performance and structure
  - Give and take – flexibility requires give and take between the employee, manager and team

- Leader led – senior leaders in the sector should role model a positive approach to flexible working through their behaviours and decisions
- Context matters – agencies will need to develop their own strategies based on their role types, operating contexts and industrial arrangements.
- Organisation and managers should not cap or put a limit on how many flexible working arrangements are in place in a team/unit/organisation, unless there are clear operational/rostering reasons (for example, hospitals may require a minimum number of capabilities in specialist areas for a given shift). A team-based approach should be used to determine how any number of flexible arrangements can be accommodated, but still get the work done to the standards required.

## Specify who the policy applies to

- Flexible working is available to all NSW government sector employees, including employees who have just commenced with the agency and contractors. However, agencies can discuss flexible working arrangements with third party contractor/labour hire agency for these arrangements.
- There is no ‘wait time’ or eligibility based on how long an employee has been with an organisation. Flexible working does not need to be earned and probation periods need not apply.
- Poor performance is not a reason to deny a proposal to work flexibly. Poor performance should be addressed via formal agency performance measures.
- Flexible working is not a reward; all employees have access to request flexible working via a flexible working proposal, as long as it meets the needs of the employee, their team and their organisation.
- Just as there is no ‘one-size-fits-all’ approach to flexible working, there is no ‘one-size-fits-none’ either. Certain roles, types of flexible working or services should not be excluded. Each flexible working proposal must be considered on its own merits.
- Flexible working must be mutually beneficial; an employee cannot be directed by an agency/department to work flexibly.
- Flexible working cannot be used to reduce or remove an employee’s entitlements under awards or agreements.
- If there is a concern that an individual’s proposal for flexible working could conflict with industrial entitlements, then agencies can seek guidance from **Public Sector Industrial Relations**.

## Specify who is responsible for its implementation

- Responsibility for implementing the policy may lie with the Secretary, Senior Executive Committee, Chief HR Officer and applies to all employees working at the department/agency.

# Explain how to set up a flexible working arrangement

Flexible work arrangements can be agreed or established through:

- local arrangements: such as flexible start times through discussion between an employee and manager
- ad hoc arrangements: such as short-term telecommuting through discussion or email between an employee and manager
- formal approval: for ongoing or long-term arrangements
- A proposal to work flexibly can be motivated by any number of reasons, such as caring for dependents, personal development, community involvement, lifestyle reasons, etc. The reason provided is not material to the decision to approve it or not. Work can be undertaken in a variety of settings, and as a way to allow for peak periods and variance.
- Employees seeking ongoing flexible working are responsible for developing written proposals. You may choose to have checklists for **making a flexible working proposal** and **considering a flexible working proposal** to support this. Factors such as business impact, work type and role, context of the request, impacts on others and legal obligations must be considered.
- Once an employee has developed a flexible working proposal, a discussion must take place between the manager and employee to discuss it, approve/renegotiate options/review etc. It is best practice that this discussion takes place within 21 days of receipt of the proposal.
- Specify the delegation to review, approve and appeal flexible working arrangements. To ensure consistency and fairness for all employees, it is suggested that a mechanism for review is available. For example, if the direct manager does not approve the proposal for flexible working, it should then be reviewed by a one-up manager. Your agency may choose to involve HR as an appeal process if required.
- In **considering an employee's proposal** to work flexibly, a number of criteria should be considered; for example, can performance objectives be achieved under the arrangement sought, can this type of work still be done effectively and efficiently, and if an alternate work location is sought, is it a suitable work environment? If a proposal is unsuitable, the criteria for deciding this must be clearly provided for the employee, and the one-up review.
- Outline the requirement for managers to assess the success of a flexible working arrangement by measuring its contribution to delivering team and business outcomes. This can be handled efficiently via any pre-existing performance objectives articulated, for example, a performance development plan, and included in ongoing performance conversations.
- Identify the relevant legislation and best-practice considerations including security of documentation.
- Employee health and safety must also be assured in any flexible working arrangement, including sign off of WHS arrangements if working outside of the office. PSC suggests that any forms/checklists/approvals relating to WHS arrangements be included as part of the induction process, or if for an existing employee, a checklist be available internally that addresses all key issues

and responsibilities, and accompanies the proposal if employees are seeking to work at home. Ensure that this checklist addresses all of your insurer's requirements. A proposal to work flexibly from home should not be refused due to WHS assessment.

- Ongoing formal arrangements should be in writing and signed by the employee, manager and, where relevant, a delegated officer. An ad-hoc arrangement can be put in place for urgent need while the paperwork for a formal arrangement is finalised.
- If a flexible working arrangement is having an impact on the business, team and or individual, it may be terminated. A meeting to discuss this must take place between the manager and the employee, with the criteria outlined for how it is not meeting requirements. The reason to terminate needs to be put into writing with a reasonable notice period. A flexible working arrangement may be terminated without notice if there is a genuine WHS concern and/or evidence of misconduct.

## What not to include in a flexible working policy

A flexible working policy should not:

### Exclude employees based on poor performance

A flexible working policy should not exclude poor performers from having their proposals considered. Poor performance must be handled as its own issue and addressed via formal agency performance measures. Flexible working is not a reward; all employees have access to request flexible working via a flexible working proposal, as long as it meets the needs of the employee, their team and their organisation.

### Include probation and eligibility criteria

A flexible working policy should not include a 'wait time' or eligibility based on how long an employee has been with the organisation. Flexible working enables organisations to attract and retain people with the best skills and attributes. Flexible working does not need to be earned; if the work can be achieved by working flexibly after a probation period, it could probably be completed that way immediately.

### Exclude roles, certain types of flexible working or services

Just as there is no 'one-size-fits-all' approach to flexible working, there is no 'one-size-fits-none' either. A flexible working policy should include all of the flexible working options and should not limit the range of options available or services for which it is available. Each flexible working proposal must be considered on its own merits.

## **Be overly prescriptive**

Over time, flexible working and industrial award frameworks will both evolve. While the policy should acknowledge industrial parameters, being too prescriptive without allowing for evolution will date the policy quickly.

## **Restrict or cap the number of flexible working arrangements in place**

Organisation and managers should not cap or put a limit on how many flexible working arrangements are in place in a team/unit/organisation, unless there are clear operational/rostering reasons (for example, hospitals may require a minimum number of capabilities in specialist areas for a given shift). A team-based approach should be used to determine how any number of flexible arrangements can be accommodated, but still get the work done to the standards required.

## **Be refused due to the cost of a WHS assessment**

A proposal to work flexibly from home should not be refused due to WHS assessment costs. Employees must identify hazards and have an awareness of WHS requirements; this can be completed online with an organisation's WHS working from home assessment checklist. Key is that any hazards are identified, the employee is aware of them, and treatments will be put in place to an agreed schedule. The WHS assessment must be a cost-effective process that provides the requisite assurance and meets insurer standards.

## **Be refused outright due to set up costs and travel costs**

Set up costs and travel costs need to be discussed and considered on a case-by-case basis when it is an employee-driven flexible working proposal to work away from the office; i.e. working from home, telecommuting/remote working, working from a different location (including a different office/hub).