

## Responding to a request for flexible working arrangements – template letter

### Who can use this template

Employers can use this template to respond to an employee who has made a written request for flexible working arrangements under the Fair Work Act (FW Act).

### Why use this template

Some employees have the right to request flexible working arrangements under the FW Act.

If you have received this type of request, you need to follow certain rules when responding. It's important to get it right because penalties can apply for breaching these rules.

### How to use this template

- **PART A** of this template is a checklist with information for employers. It includes an overview of the rules around flexible working arrangements. Use the checklist to help decide how to respond to a request and to help you follow the required steps.
- **PART B** of this template can be filled out by the employer and then provided to the employee to communicate:
  - approval of an employee's request for flexible working arrangements, or
  - following a discussion with the employee:
    - approved different flexible working arrangements and the details of the agreed changes, or
    - a refusal of the employee's request for flexible working arrangements including an explanation of the reasonable business grounds for refusing the request.

We update our templates from time to time. Make sure you're using the [latest version](https://www.fairwork.gov.au/templates) from [fairwork.gov.au/templates](https://www.fairwork.gov.au/templates)

## PART A – INFORMATION AND CHECKLIST FOR EMPLOYERS

### What are flexible working arrangements?

Examples of flexible working arrangements include changes to:

- hours of work (for example, changes to start and finish times)
- patterns of work (for example, split shifts or job sharing)
- locations of work (for example, working from home).

Certain employees have the right to request flexible working arrangements under the FW Act. Employers must respond in writing to a request within 21 days. Employers can only refuse a request on reasonable business grounds and if they have followed certain steps.

For further information on [flexible working arrangements](https://www.fairwork.gov.au/flexibility) visit [fairwork.gov.au/flexibility](https://www.fairwork.gov.au/flexibility)



#### IMPORTANT

##### Flexible working arrangements under the Fair Work Act

This resource is for responding to requests for flexible working arrangements under the [National Employment Standards](#). Your award, agreement, employment contracts or workplace policies may have different rules about flexible working arrangements.

##### Check if an award or agreement applies

Before using this resource, check if an [award](#) or [agreement](#) applies to your workplace. If it does, check if it has terms about flexible working arrangements that are more beneficial to your employees than the NES. If so, the more beneficial rules apply. Visit [fairwork.gov.au/awards](https://www.fairwork.gov.au/awards) and [fairwork.gov.au/agreements](https://www.fairwork.gov.au/agreements) to find out more.

You should also check the terms of any employment contract or workplace policy about flexible working arrangements. If they're more beneficial than the NES, those apply.

##### Need more details about flexible working arrangements or need help?

- For more information on [flexible working arrangements](https://www.fairwork.gov.au/flexibility) visit [fairwork.gov.au/flexibility](https://www.fairwork.gov.au/flexibility)
- Submit an enquiry online through [My account](https://www.fairwork.gov.au/register) at [fairwork.gov.au/register](https://www.fairwork.gov.au/register)

### Check out our other resources



- Explore [interactive template tools, and downloadable templates and letters](#) available at [fairwork.gov.au/templates](https://www.fairwork.gov.au/templates) to help you manage a wide range of workplace obligations.
- Complete our [free online courses](#) available at [fairwork.gov.au/learning](https://www.fairwork.gov.au/learning) to develop skills and strategies to help you at work.

## Checklist: Responding to a request for flexible working arrangements

Use the checklist to help you decide how to respond to a request for flexible working arrangements.

### 1 – Know the rules about the right to request

Certain employees have the right to request flexible working arrangements under the FW Act.

This applies if they have been with their current employer for **at least 12 months** (including regular casual employees who have been working regularly and systematically for at least 12 months and have a reasonable expectation of continuing to do so), **and they:**

- are pregnant
- are the parent, or have responsibility for the care of a child who is school aged or younger
- are a carer (within the meaning of the Carer Recognition Act 2010)
- have a disability
- are 55 or older
- are experiencing family and domestic violence, or
- are caring for or supporting an immediate family or household member who requires care or support because they are experiencing family and domestic violence.

**Remember**, while certain employees have the right to request under the FW Act, all employees can ask for flexibility at work. It's best practice to consider flexible workplace strategies and their benefits. See our [Flexible working arrangements best practice guide](https://www.fairwork.gov.au/bestpracticeguides) at [fairwork.gov.au/bestpracticeguides](https://www.fairwork.gov.au/bestpracticeguides)

### 2 – Consider the request

You can only refuse a request if you have reasonable business grounds (and you have followed the required steps outlined at [Step 4](#)).

Reasonable business grounds will depend on the individual circumstances, including the nature and size of the business, the employee's role and duties and the requested arrangements. Examples of reasonable business grounds for refusing a request could include:

- **Cost** – the requested arrangements would be too costly for your business.
- **Capacity** – there's no capacity to change the working arrangements of other employees to accommodate the request.
- **Practicality** – it would be impractical to change the working arrangements of other employees, or take on new employees, to accommodate the request.
- **Inefficiency or customer service impact** – the requested arrangement would be likely to result in significant loss in efficiency or productivity, or have a significant negative impact on customer service.

Remember, it's best to approach the situation with an open mind. Flexibility helps employees maintain a work/life balance and can improve business productivity and efficiency.

In considering a request for flexible working arrangements you should:

- **Think about the benefits** – don't assume that 'different' always means 'worse'. For example, the proposed arrangement may reduce your staff costs or have a positive impact on your service delivery.
- **Think about the impact on your business** – for example, would the proposed arrangement require changes to the working arrangements of other employees, and are those changes practical?

- **Approach with an open mind** – it's best practice to approach a request thinking 'how can I meet my employee's needs'.
- **Recognise different needs** – not every situation is the same. It's important to have an individual approach to the employee's needs. What works for one person might not work for another.
- **Look for solutions** – Think creatively about alternative arrangements you can offer that are more suited to your business needs, such as flexible start and finish times.

### 3 – Make an initial assessment

Make an initial assessment about how you will respond to the request.

#### **Approving the request**

If you are **approving the employee's request**, you can respond directly to the employee in writing. **You must do this within 21 days.**

Go to [Step 5](#).

It is a good idea to also meet with the employee to discuss the request before you respond in writing. You can use this opportunity to discuss and confirm any changes that may apply to their work, workload or conditions that may result from the new arrangements.

#### **Refusing the request**

If you are **considering refusing the request**, there are steps you **must** take before responding to the employee.

Go to [Step 4](#).



#### **IMPORTANT**

Remember, you can only refuse the request if you have reasonable business grounds to refuse and you have followed the required steps.

### 4 – Meet with the employee to discuss and consider alternatives

If you are considering refusing a request, you **must** first:

- discuss the request with the employee, and
- genuinely try to reach an agreement with the employee about making changes to their working arrangements to accommodate their circumstances.

If you are unable to reach an agreement for alternative arrangements, you must also consider the consequences for the employee of refusing the request, before refusing.

When discussing with your employee, you should:

- **Understand** – make sure you take the time to understand the employee's circumstances and the possible impacts on them of refusing the request.
- **Explore** – take the time to discuss and consider alternative arrangements that may suit your business and the employee's circumstances.
- **Consider trials** – if suitable, you could agree with your employee to set a fixed period such as three to six months, to trial a flexible working arrangement.

## □ 5 – Respond in writing

You must respond in writing **within 21 days** of the request saying whether you are approving or refusing the request, or setting out agreed alternative arrangements. If you are refusing the request, the written response **must** include:

- details of the reasons for refusal including an explanation of the reasonable business grounds for refusing the request and how these grounds apply to the request
- details of any other changes you are willing to make that would accommodate the employee’s circumstances or state that there aren’t any changes
- information about the dispute resolution process set out in the FW Act (see [Step 6](#)).

If you have discussed the request with the employee and have agreed to make changes to the employee’s working arrangements that are different to what they requested, the written response **must** set out these agreed changes.

You can use the below [TEMPLATE LETTER – Responding to a request for flexible working arrangements](#) to help you respond.

## □ 6 – Know the dispute processes

The FW Act sets out a process for resolving disputes where an employee has made a request for flexible working arrangements and:

- their employer has refused their request, or
- 21 days have passed, and their employer has not given them a written response to their request.

Under this process, in the first instance, you and your employee must try to resolve any disputes at the workplace level, by discussions. If you can’t, the Fair Work Commission (FWC) can assist. Either you or your employee can lodge an application with FWC to deal with the dispute.

FWC can deal with the dispute in a number of ways, including by:

- conciliation
- mediation, and
- in some circumstances by arbitration.

If FWC arbitrates the dispute, it has power to make orders in relation to the request or refusal, and orders that the employer make alternative working arrangements.

You and your employee can appoint someone as your representative to assist with the dispute resolution process.

For more information visit the [Fair Work Commission’s website](#) at [fwc.gov.au/issues-we-help](http://fwc.gov.au/issues-we-help)



### IMPORTANT

This template has been colour coded to help you to complete it. You simply need to replace the **red < > writing** with the information that applies to your situation. You should change all the text to **black** when you’re finished.

The **purple writing** shows you extra explanatory information and should also be deleted, including this text box and the heading above.

You may wish to tailor some of the content to suit your business and the employee’s circumstances, but you **must** still comply with the requirements for refusing a request and writing a refusal response (see **Part A**).

## PART B – TEMPLATE LETTER – Responding to a request for flexible working arrangements

<Print on your business letterhead if applicable>

<Date>

### Private and confidential

<Insert employee's full name>

<Insert employee's residential address>

Dear <Insert employee's name>,

### Your request for flexible working arrangements

I refer to your <letter/email> dated <insert date of request> where you requested the following flexible working arrangements:

<Insert details of changes requested, for example:

- changes to your start and finish times
- working from home 2 days per week>.

You requested the above arrangements because <insert details of the employee's reasons for the changes requested>.

We have carefully considered your request.

[Choose 1 of the following 3 options and delete those that do not apply]

[Option 1 – approve the request]

I am pleased to advise that we can accommodate the flexible working arrangements you've requested. Your new working arrangements will commence on <insert date of commencement>.

<Delete this section if not applicable> This arrangement is agreed to on a trial basis. This means we will monitor and review this arrangement to ensure it continues to meet both your needs and the needs of the business. The first review will take place on <insert date for review>, however it may be scheduled earlier if required.

[Option 2 – refuse original request but agreed to make a different arrangement after discussion with employee]

As discussed on <insert date>, we are unfortunately unable to approve your original request for the following operational reasons:

- <It's good practice to insert reasons why the requested arrangements cannot be accommodated.>

However, as discussed with you, we confirm our agreement on the following alternative arrangements to accommodate your circumstances:

- <Insert details of alternative agreed arrangements as discussed with employee>.

<Delete this section if not applicable> This alternative arrangement will commence on <insert date of commencement> on a trial basis. A review of the arrangement will take place on <insert date for review> to ensure that it continues to meet both your needs and the needs of the business. This review may be scheduled earlier if required.

[Option 3 – refuse request with no agreed alternative arrangements]

As discussed on <insert date>, we are unfortunately unable to approve your request for the following operational reasons:

- <Insert reasons why the requested arrangements cannot be accommodated. You **must** detail the reasonable business grounds on which you have made this decision and how they apply to this request>.

The business has considered the possibility of alternative flexible working arrangements to accommodate your circumstances other than those you requested.

<Delete this section if not applicable> We are able to offer the following alternative arrangements:

- <Insert alternative options>.

<Delete this section if not applicable> Unfortunately, we are not able to offer any changes to your working arrangements at this time.

[Include the below content for options 2 and 3]

If you do not agree with this decision, please contact <name and contact details of person to escalate this to for resolving disputes at a workplace level>. We will attempt to resolve your concerns by discussing them with you.

If we can't reach a resolution, we both have the right to lodge a dispute with the Fair Work Commission. The Fair Work Commission can deal with disputes about flexible working arrangement requests, including by arbitrating in some circumstances and making orders to resolve a dispute if it cannot be resolved at the workplace level.

[It's important to follow any orders that the Fair Work Commission makes - penalties can apply for breaching these orders.]

You are able to appoint someone as your representative (such as a union) to assist with the dispute resolution process either at the workplace or in the Fair Work Commission. For more information you can visit their [website](http://www.fwc.gov.au/issues-we-help) at [fwc.gov.au/issues-we-help](http://www.fwc.gov.au/issues-we-help)

Please contact me on <insert phone number> if you have any questions.

Yours sincerely,

<Insert name>

<Insert position>

PLEASE KEEP A COPY OF THIS LETTER FOR YOUR RECORDS

The Fair Work Ombudsman is committed to providing you with advice that you can rely on.

The information contained in this template is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.