

Requests for flexible working arrangements

Overview

Requests for flexible working arrangements form part of the National Employment Standards (NES). The NES apply to all employees covered by the national workplace relations system and can't be excluded by any award, agreement or contract.

The NES include a right for certain employees to request flexible working arrangements (such as changes in hours of work) from their employer. An employer can only refuse a request on 'reasonable business grounds' and if the employer has followed certain steps.

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

For further information on developing flexible workplace strategies to achieve work-life balance and their benefits, see our [Flexible working arrangements best practice guide](#) at fairwork.gov.au/bestpracticeguides

Who is eligible to make a request for flexible working arrangements?

An employee may request a change in their working arrangements if they require flexibility because they:

- are pregnant
- are the parent, or have responsibility for the care, of a child who is of school age 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.

Examples of changes in working arrangements may include:

- changes in hours of work (for example, reduction in hours worked, changes to start/finish times)

- changes in patterns of work (for example, working 'split shifts' or job-sharing arrangements)
- changes in location of work (for example, working from home or another location).

Full-time and part-time employees are entitled to make a request if they have completed at least 12 months of continuous service with their employer immediately before making the request.

Casual employees are entitled to make a request if:

- they've been working for the same employer regularly and systematically for at least 12 months, and
- there is a reasonable expectation of continuing employment by the employer on a regular and systematic basis.

What are the requirements for making and responding to a request?

Eligible employees must make their request in writing to their employer. They must set out the details of the change they are requesting and the reasons for the change.

Employers need to respond to a request for flexible working arrangements within 21 days of receiving a request. They must respond in writing to approve or refuse the request, or set out any alternative working arrangements that they have agreed with the employee.

An employer may only refuse a request on reasonable business grounds and have taken certain steps, including:

- discussing the request with the employee
- genuinely trying to reach an agreement with the employee for alternative arrangements, and
- considering the consequences for the employee of refusing the request.

Find out more about what steps employers need to take and what needs to be in the written response on our [Flexibility in the workplace page](#) at fairwork.gov.au/flexibility

The NES do not require the employer to choose between granting an employee's request in full or

refusing the request. Employers and employees are encouraged to discuss the request and, where possible, reach an agreement on alternative arrangements that balances both their needs. If an employer has agreed to make changes to the employee's working arrangements that are different to what they requested, the employer must set out these agreed changes in their written response.

It is a breach of the Fair Work Act (FW Act) if an employer does not comply with their obligations in relation to a request for flexible working arrangements. This includes if they do not have reasonable business grounds for refusing a request or if they don't follow the required steps.

What are reasonable business grounds for refusing a request?

What counts as reasonable business grounds for refusing a request for flexible working arrangements 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 include but are not limited to:

- **cost** – the requested arrangements would be too costly for the employer
- **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 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.

Find out more about reasonable business grounds, what steps employers need to take on our [Flexibility in the workplace page](#) at fairwork.gov.au/flexibility

Example

Greg has been working full-time for his employer for over a year. He would like to start work at 10 am on 3 days of the week so he can take his son to pre-school. He submits a written request to his employer to change his hours setting out the reasons for requesting the change.

His employer considers the request and is concerned that Greg would miss the important daily nationwide meetings on those 3 mornings.

Greg's employer discusses the situation with him. Given that the pre-school is only a short drive from Greg's home, they agree to an arrangement where Greg will work from home on those 3 days and join the meetings via video chat after dropping off his son in the morning.

Greg's employer gives him a written response within 21 days of his request, setting out the agreed changes to the Greg's working arrangements.

Can a refusal of a request be challenged?

In the first instance, the employer and employee should discuss and attempt to resolve any disputes about a request for flexible working arrangements at the workplace level.

If a dispute can't be resolved at the workplace level, either the employee or employer can make an application to the Fair Work Commission (the Commission) if:

- the employer has refused the request, or
- 21 days have passed since the employee made the request, and the employer has not given the employee a written response.

The Commission can deal with the dispute in a number of ways, including by conciliation or mediation, and in some circumstances by arbitration. If the Commission 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.

Both the employer and employee may appoint someone as their representative to assist with the dispute resolution process.

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

If an employee thinks they have been discriminated against by the employer's handling or refusal of their request, they may be covered by anti-discrimination laws.

For more information on unlawful workplace discrimination, see our [Protection from discrimination at work page](#) at fairwork.gov.au/discrimination



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Fair Work Infoline: **13 13 94**

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Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: **13 36 77**. Ask for the Fair Work Infoline **13 13 94**

Speak & Listen: **1300 555 727**. Ask for the Fair Work Infoline **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet 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.

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