



Independent Education Union of Australia

FLEXIBLE WORK ARRANGEMENTS GUIDE

Employees in the faith-based, community and independent schools, early childhood, and post-secondary education sectors are dedicated to their work. They also have diverse needs and interests outside of their workplace.

The Fair Work Act 2009 provides employees with a legal right to request flexible working arrangements.

Employers who facilitate flexible work arrangements for their employees are demonstrating best practice which is more likely to result in increased workplace efficiency and a greater level of calm in the workplace.

Flexible work arrangements are beneficial for both the employee and employer.



What is a flexible working arrangement?

Flexible working arrangements include:

- Flexible hours of work. (e.g. working fewer hours or changing your start or finish times)
- Changing your pattern of work. (e.g. job sharing)
- Changing your place of work. (e.g. working from home)
- Provision of flexible leave arrangements. (e.g. purchasing leave)

What are the benefits for employees?

- Ability to enjoy a better life balance
- Sustainable career management
- Improved management of workloads
- Reduced stress at work
- Job satisfaction
- Rediscovering enthusiasm for your career
- Better ability to plan for the future; and
- Improved health

What are the benefits for the workplace?

- Gaining from the expertise of employees who enjoy longevity in relation to their work life
- Securing long term loyalty and commitment from employees
- Modelling values of respect and dignity at work to the school community
- Reduction in time off due to sickness and injury
- Ability to meet requests for full-time work for other employees; and
- Improved employee morale

What does legislation say about access to flexible working arrangements?

Flexible working arrangements form part of the National Employment Standards (NES).

The NES apply to all employees covered by the Fair Work Act, regardless of the applicable awards and/or agreements or contract of employment.

Terms in awards, agreements and employment contracts cannot exclude or provide for an entitlement less than the NES and those that do, have no effect.

An employer must not contravene a provision of the NES. A contravention of a provision of the NES may result in significant fines for the employer.

Entitlements under State/Territory laws and Collective Agreements

Some States and Territories have laws about flexible working arrangements which may provide better entitlements. As well, your collective agreement may also provide for flexible working arrangements.

IEU members are encouraged to check their Collective Agreements and talk with our Union on accessing provisions.

Who is eligible to request flexible work arrangements?

You are eligible to request flexible working arrangements if you:

- Have been with your current employer for at least 12 months, or
- Work on a casual or relief basis:
 - have been employed regularly and systematically for at least 12 months, and
 - are likely to continue working regularly.

And:

- Are a carer (as defined in the Carer Recognition Act 2010).
- Have a disability.
- Are 55 or older.
- Are experiencing family or domestic violence.

- Are caring for or supporting an immediate family or household member who requires care or support because of family or domestic violence.

In addition to the eligibility criteria just listed, from 1 July 2013 you have the right to request flexible working arrangements –

- If you are pregnant, you can request a transfer to a safe job even if you haven't worked for your employer for 12 months
- You can request special maternity leave without it reducing the amount of unpaid parental leave you can take.
- Employee couples can request up to 8 weeks unpaid parental leave at the same time (increasing from 3 weeks) and can take it in separate periods e.g. 2 periods of 2 weeks off.
- A parent or guardian of a child who is school age or younger can request flexible work arrangements.

Your rights and expectations

You have a right to serious consideration of your request for flexibility as follows:

- The request should be given consideration.
- You should be consulted at all relevant times.
- You should be provided with all pertinent information in a timely manner.
- You should have adequate time to consider the employers response.
- You should be provided with other options in relation to the request regarding flexibility if the request can't be granted for the reasons outlined above.
- The employer should comply with relevant industrial requirements.

What does your employer have to consider when assessing your request?

Your employer should consider:

- The arrangements needed to accommodate your request.

- How easy it is for current employees to cover work.
- How easy it is to find someone else to do the work.
- How the change would affect the workplace's finances, efficiency, productivity and service.

On what grounds can your employer refuse your request?

Your employer can refuse on reasonable business grounds, such as:

- It will be too expensive for the employer to implement.
- It would result in a significant loss in efficiency or productivity.
- It would be likely to have a significant negative impact on service.
- There isn't any capacity to change the work arrangements of other employees affected.
- That it would be impractical to change the working arrangements of other employees, or recruit new employees.

An employer's refusal should be in writing and detail the reasons for refusal.



Flexible Work Arrangements Checklists

Before applying for flexible work arrangements you should check with the IEU on the following:

- Are there details of flexible work arrangements in Awards and/or Agreements for your school or workplace?
- Are there flexible arrangements in policies and procedures in the workplace?
- Is there a process to request flexible work arrangements?
- Is there a process for consultation for employees to talk about employer and employee needs for work and family balance?
- Are there existing flexible work arrangements at the school?

Are you eligible to apply for flexible working arrangements?

- Have you worked for the employer either on a full-time or part time basis for 12 months?

AND does one of the following apply?

- Are you a parent, or have responsibility for the care of a child who is of school age or younger?
- Are you a carer?
- Do you have a disability?
- Are you 55 or older?
- Are you experiencing violence from a member of your family?
- Are you providing care or support to a member of your immediate family or household who requires care or support because they are experiencing violence from their family?

How do you make an application for flexible working arrangements?

- Ask IEU for advice prior to making your application.
- Identify how your request can also benefit the workplace.
- Think about options to make it easier for your employer to accommodate your request.
- Talk to colleagues who may be affected.
- Make it clear that you are committed to ensuring that the arrangements work effectively for everyone.
- Draft your request letter.

Discussing your request with your employer

- Ask for a meeting at a convenient time.
- Come prepared. Write down a list of points you want to make. Note down any agreements reached in the meeting.
- Be clear and realistic.
- If you are not confident, ask your union rep to come with you.

What should you do if your employer doesn't respond in a timely manner?

Under the Fair Work Act an employer must give a written response to a request within 21 days. If this has not happened:

- Make an enquiry of your employer.
- Contact IEU for further advice and assistance.

What should you do if your employer refuses your request?

- Ask your employer why they have refused your request
- Contact the IEU for further advice and assistance

Looking to the future it is a shared responsibility for all parties to ensure there is ongoing review and evaluation of flexible work arrangements including:

- Inclusion in the relevant Awards and/or Agreements.
- Policies and procedures are in place at your workplace.
- Processes for consultation are working effectively.
- Flexible work arrangements are in place and working effectively.

The entitlement to flexible working arrangements was secured by IEU members.

The Independent Education Union is here to assist you to improve and protect your entitlement at work including flexible work arrangements and your right to request.

If you do nothing, nothing will change.