 Guidance

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| Flexible working |
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| Policy Guidance |
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# Flexible Working - Policy Guidance

## 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, including your commitment to all roles flexible on a basis of ‘if not, why not’.
* 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. Employees can enter, exit, and re-enter the workforce, and may need to increase or decrease their workload at different life stages. For example, employees who are transitioning to retirement may want to use flexible working such as part-time or job share. It can also mean that leave entitlements can be taken in a flexible way, i.e. study leave, parental leave.
* 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.
* Include all of the flexible working options available, and do not limit the range available or their percentage of use. Over time, flexible working will evolve and being prescriptive to the range of flexible working options available to an organisation will date the policy quickly. 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

* Six principles are set out in the ’Make Flexibility Count Strategic Framework’, which can be utilised here.
* Outline the Flexible Working Principles relevant to your organisation. The implementation of flexible work is guided by your principles.
* 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 is possible across all roles at all levels
* 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 working can be accessed formally or informally.
* 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 (example checklist and template available here). 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? The ‘Managers checklist for considering a flexible work proposal’ outlines further criteria that can inform decision making. 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 (flexible working proposal template available here). 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.

# Flexible Working – Example Policy

## Objectives and purpose

We recognise that to achieve our vision of XX we must be agile in our workforce management, and flexible working helps us to achieve this.

This Flexible Working Policy sets out our commitment to ensure that all roles can be flexible on an ‘if not, why not’ basis. Doing this will assist us to realise the benefits of using flexible working to improve service delivery and customer satisfaction.

Flexible working enables us to attract people with the best skills and attributes to develop a workforce whose diversity reflects that of our customer and the people of NSW.  We understand that organisations who value flexible working have productive and fulfilling workplaces that assist them to attract and retain employees, leading to savings in recruitment and training costs, as well as maintaining corporate knowledge and expertise. It also reduces the high costs associated with workplace exclusion such as increased turnover, absenteeism and reduced productivity.

This policy and supporting documents provide guidance to employees and their managers about flexible working arrangements.

Our objectives for flexible working are to:

* be an employer of choice for all our people and improve our ability to attract, develop and retain a diverse workforce;
* manage for outcomes and measure their achievement, rather than focus on inputs and activities such as where and when work is performed;
* make flexible working a central part of how our organisation and employees work;
* support and empower all of our employees to be able to do their best and bring their whole selves to the workplace; and
* ensure that all employees have equitable access to opportunities available at work and are rewarded and recognised for their contributions.

## What is flexible working?

Flexible working is employees having access to flexibility across all roles, for any reason, enabling them to have successful and engaging careers. This involves flexibility which improves the performance and wellbeing of organisations, teams, and individuals.

Flex time will continue to exist as a useful way to adjust your hours of work between busy and quieter periods. Flexible working, however, is a much broader range of informal and formal arrangements for the when, where and how work can be done. It can also include remote working, career breaks, compressed weeks, job sharing, flexible rostering and much more.

For flexibility to work it must find an equilibrium between the needs of employees, their teams and their organisation. This means that the arrangement decided can be unique to its context, as long as all parties to it consent. Some of the typical arrangements available in this agency include, but are not limited to:

### WHEN

Bid rostering

Flex time and time banking

Flexible rostering

Flexible working hours/flexible scheduling (varying your start and finish times)

### WHERE

Activity-based working/Agile working

Telecommuting/remote working

Working from a different location (including different office/hubs)

Working from home

### HOW

Compressed working week/compressed hours

Job share

Part-time work

Shift swapping

Split shifts

## Our flexible working principles

These Principles set out the standards and values that underpin a culture of flexibility, and provide guidance to both managers and employees in carrying out their respective roles and responsibilities with respect to flexibility.

### For everyone

Everyone is able to request the types of flexibility that makes sense within their role, and what that arrangement looks like will vary depending on the role.

Managers and their teams consider what is possible on the basis of ‘why not?’

Flexibility is not a special provision or a reward that needs to be earned.

### Mutually beneficial

Successful flexibility embodies the best outcome for employees, employers and customers.

Flexible work must maintain or improve service delivery for the people of NSW and not increase labour costs.

### About the team

Flexible working should be considered in the context of the team, with all arrangements taking a team overview about how work will be distributed and solve for the needs of the team.

It must take into account the legislative provisions relating to flexible working that apply to certain categories of employees.

### Give and take

Not all types of flexibility will be available for every role and every individual all the time.

Flexible work requires give and take between employee, manager and teams.

Flexible working arrangements may change and cease (requiring a new proposal to be discussed) due to a number of reasons, including business and operational needs.

It is the obligation of the employee, their manager and their team to make any flexible working arrangement a success.

Flexible arrangements should be reviewed regularly to check they are working well and address any issues that may arise.

### Leader led

Senior leaders should lead the way and show what is possible with flexible working.

Senior leaders need to visibly demonstrate how they are building flexible working into their own lives and enabling their teams to work flexibly.

### Context matters

Different types of flexibility will suit different roles, given the size and diversity of the NSW government sector.

Assumptions will need to be challenged to rethink work design and business models to realise flexible working to improved service delivery.

## Audience

This policy applies to all full time, part time, ongoing and temporary employees including casual employees. Contractors may also request to work flexibly; agreement needs to be sought between the department and third party labour hire agency.

## Implementation responsibility

Implementation responsibility for this policy lies with the Secretary, Executive, managers and all roles with direct reports.

Managers and employees are responsible for ensuring that any flexible working arrangement continues to ensure the health and safety of the employee using it.

## Process for setting up a flexible working arrangement

Managers and employees have a mutual obligation to ensure that flexible working arrangements do not have a detrimental impact on others. The ability to continue to deliver on business outcomes must be a paramount consideration in any flexible work proposal. 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.

Employees seeking ongoing arrangements should complete a proposal to work flexibly. A proposal to work flexibly can be motivated by any number of reasons and this will influence the arrangement sought. Employees can use the ‘checklist for making a flexible working proposal’ when thinking about and preparing their proposal.

Ad-hoc and short term arrangements may be agreed between employees and their manager from time to time. It is important that each proposal for flexible working is considered on its individual merits. Employees should schedule a meeting with their manager to discuss their flexible working proposal.

Proposals should outline the logistics of the arrangement, and include timeframes and review periods where required. An ongoing agreement must be formally recorded, approved and date/s for review noted.

Flexible working arrangements should be discussed as part of regular performance discussions to ‘check in’ whether it is working. Performance Development Plans in place are used to help assess whether the flexible working arrangement is contributing to the employee delivering on their performance objectives.

The manager and employee must openly discuss their flexible working proposal, understanding the business outcomes, and start from the perspective of seeking to make it work. Managers can use the ‘considering a flexible working proposal checklist’ as part of the review process.

If during these discussions the manager and employee do not agree on the flexible working proposal first made, they should consider identifying alternative suitable options to work flexibly.

If a manager does not agree with an employee’s flexible working proposal that it will still satisfy operational requirements, and an alternative arrangement cannot be agreed, the manager must articulate to the employee why it is not suitable, including the criteria for the decision made. It must then be reviewed and discussed with the manager’s manager (one manager up from employee) to ensure fairness and consistency, and that all proposals are considered on merit taking into account individual, team and business needs. The manager must be able to substantiate how the flexible working arrangement will not work by explaining the impact and outcomes on the individual/team/business.

If a proposal for flexible working is not approved it must be discussed with the employee and options for other flexible working arrangements should be jointly explored. All decisions and their reasons should be relayed to the employee in writing.

## Approval

Once there is a mutual agreement of the employee’s ongoing flexible working proposal, a written and signed agreement should be developed between the manager and employer prior to the commencement of any long term/ongoing new flexible working arrangement. The flexible working proposal template can be used.

An approved flexible working proposal that has work occurring outside of the office must ensure relevant WHS information is taken into account and approved.