

A GUIDE TO UNDERSTANDING FLEXIBLE WORK



QUEENSLAND

Information Sheet

This information is intended for Queensland Public Sector employees, local government and others working under the *Industrial Relations Act 2016* (QLD). For employees in the federal jurisdiction, please refer to *A guide to understanding Flexible Work – Fair Work Act*.

What is a flexible work arrangement?

A flexible work arrangement is where a full-time employee may seek a workplace adjustment to allow them to find a productive balance between professional and personal responsibilities. A flexible agreement may alter the hours worked, when and where they are worked and change the way an employee works.

Research has shown that there are positives to be gained for employees and employers in supporting flexible work such as increased job satisfaction, productivity and motivation, as well as decreased stress levels.

Who is eligible to apply for flexible work?

The *Queensland Industrial Relations Act 2016* provides that any employee may make a request of an employer for flexible work. This may include:

- the employee's hours of work;
- where the employee works (e.g. work from home); or
- a change to the way the employee works – for example the use of different equipment because of a disability, illness, or injury.

This list is not exhaustive.

Under the *Fair Work Act* (those working in the federal system), the following classification of employees should be prioritised in considering flexible work requests:

- parents of children or have responsibility of the care of children who are school age or younger;
- carers (as recognised under the *Carer Recognition Act 2010*);
- people with a disability;
- people who are 55 or older; and
- people who are experiencing domestic and family violence or provide care and/or support to a member of their household or immediate family who requires care because of family or domestic violence.

Under the general principles of good decision making, each case must be considered on its own merits. Blanket statements and quotas are not appropriate. Employees making a request for flexible work should provide the employer with as much information as possible to enable the employer to make a considered decision based on your individual circumstances at the time.

How do you apply for flexible work?

Employers may have their own internal policies and process to support the process, however, it is important that requests be:

- made in writing;
- outline clearly what changes are being requested and
- explain the reasons for the change/request and the impact on the employee if it is not supported. (If there is documentation to support this request include it with the application.)

What must employers/managers consider with a request for flexible work?

Employers and managers must consider each request on its own merits and not make blanket decisions or implement quotas or limits. As part of this process, they should take into consideration:

- the needs of the employee;
- consequences of not approving the request; and
- responding with either an approval or refusal to the request within 21 days of receipt. (If the request is not approved, a response with reasons for refusal must be provided in writing to the employee.)

What are reasonable grounds for an employer to not approve a request for flexible work?

While not a definitive list, reasonable grounds need to be demonstrable and could include:

- prohibitive and additional cost to the employer;
- impact on other employees' working arrangements and because other employees' arrangements cannot be changed;
- impracticable impact on other employees' working arrangements and/or requires hiring of new employees to accommodate the request; or
- significant loss of productivity and/or the request will have a significant impact on customer service and/or delivery.

Decisions about request for flexible working arrangements

Following a request from an employee, the employer may decide to:

- grant the request;
- grant the request in part or subject to conditions; or
- refuse the request.

The employer may grant the request in part or subject to conditions, or refuse the request, only on reasonable grounds. This means providing a written explanation as to why the request can or cannot be accommodated and the reason/s for the decision. The employer must give the employee written notice about its decision within 21 days after receiving the request.

If the employer does not give written notice about its decision within 21 days of receiving the request, the employer is taken to have decided to refuse the request.

What happens if my request for flexible work is not approved?

If you believe the decision to refuse your request is unreasonable, you can appeal the decision. The *Industrial Relations Act 2016* (QLD) states that if the employer grants a flexible work request in part or subject to conditions, or refuses the request, written notice about the decision must state:

- the reason/s for the decision, outlining the reasonable grounds for granting the request in part, or subject to conditions or for the refusal; and
- that the commission has jurisdiction to hear and decide a dispute over the request.

This means an employee can lodge a dispute in the QIRC where a request for flexible work has not been reasonably accommodated or an employer has not responded to a written request within 21 days.

Other considerations

It is advisable to confirm the flexible work arrangement in a written agreement that outlines:

- what flexibility is being provided and what has been agreed to;
- any limitations or conditions on the agreement; and
- check in and review dates to ensure the agreement is still working for both parties and accommodating any personal and professional changes.