

# Flexible Working Arrangements

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## Introduction

Flexible working arrangements enable employees to balance their professional and personal commitments. Corrections benefits by being able to recruit and retain a diverse workforce from a variety of backgrounds with a range of external interests and life experiences.

Flexible working arrangements may be formal or informal, depending on their nature.

In order to work well, both types of arrangement must meet operational and business unit (as well as individual) needs.

## Purpose

The purpose of this policy is to:

- outline the requirements for formal flexible work applications and approvals or refusals under Part 6AA of the Employment Relations Act 2000 (ERA);
- clarify the difference between formal and informal flexible work arrangements, and
- give an indication of possible limits or restrictions where flexible working arrangements may not be practicable.

This policy is not intended to:

- replace any flexible work options that may already be available to employees under current employment agreements;
- restrict an employee's ability to make an informal request to their manager regarding flexible work options, or
- restrict a new employee's ability to negotiate reduced hours or any other arrangement at the time they join Corrections.

## Coverage

This policy applies to permanent and fixed-term employees.

## Legislation

Key legislation relevant to flexible work options is listed in the table below:

Legislation	Requirement

Legislation	Requirement
Employment Relations Act 2000 (ERA)	Part 6AA provides a statutory framework for employees to request changes to their working arrangements at any time.
Health & Safety Work Act 2015	Promotes the health and safety of employees and others in and around places of work, including employees who are working from home. Both employers and employees are responsible for ensuring safety in their place of work.
State Sector Act 1988	Requires the Chief Executive to operate a good employer policy for the fair treatment of all employees in all aspects of their employment (including good and safe working conditions, and an equal employment opportunities programme).

### Policy statement and outcomes

Under this policy any employee can make a formal request under Part 6AA of ERA for permanent or fixed duration changes to their current work pattern or place of work.

Adherence to this policy will ensure legislative requirements are met;

### Principles

The following principles apply to the consideration of formal requests for flexible working arrangements.

Principle	What does this mean?
Maintaining Performance Standards	Where a cost effective solution is available that balances the needs of the individual and their work team, and maintains standards of product or service delivery, it will be seriously considered.
Managing Risks to Performance	Where Corrections' performance standards (including employee health and/or safety, or the security of information and systems) could be compromised, requests will be declined.
Equity	Employees working flexibly recognise that other employees may wish to have requests considered, and managers may review existing arrangements from time to time in the context of new requests.
Transparency	Employees and their managers understand the terms and conditions under which a request may be considered (and trialed if need be), before being accepted or declined.

### Delegations

Delegated authority is required to vary standard hours of work (from 40 hours per week) for staff on individual employment agreements, or to approve an employee's request to vary hours of work (part-time/full-time) either indefinitely or for a specified period of time.

### Hours and days of work in Corrections

The nature of Corrections' business means that hours and days of work can vary considerably across Se  
Groups, depending on employees' roles, office and site opening hours, and whether or not employees are  
to work on a roster or shift basis. 1 ed

Employees' days and hours of work are contained in their collective or individual employment agreements.

### **Informal approach to flexible work arrangements**

Subject to the provisions of their employment agreements and internal and external service demands employees may, with their manager's approval, be able to:

- vary their daily start and finish times (usually around core hours), and/or
- choose the timing of their lunch breaks, and/or
- take time off for an appointment or to deal with an emergency at home and make up the time within the pay fortnight.

Generally, these arrangements do not require formal requests and/or documentation, and may change over time as individual circumstances change.

### **Formal requests from employees**

An employee who would like a greater change to their work pattern than can be arranged informally can make a formal application under Part 6AA of the Employment Relations Act (ERA).

A formal application might include changes to the employee's:

- normal pattern of hours of work (e.g. start work half an hour later than the standard time to take a child to school and/or
- normal pattern of days of work (e.g. working on different days of the week), and/or
- normal place of work (e.g. working from home – see below).

These changes may be permanent, or temporary (i.e. for a defined period of 4 weeks or more).

### **Changing the place of work**

Corrections employees are generally required to work at a designated location. However, there may be instances where working from home for set hours or days on a regular basis could be an option for employees in corporate or "backroom" roles with limited colleague or client interaction.

Please refer to the [Working from Home](#) guidelines for managers and employees considering this option.

### **Who is eligible to make a formal request under Part 6AA of ERA?**

Under Part 6AA of ERA any employee, permanent or fixed term, is eligible to make a formal request at any time.

### **How do you lodge a request under ERA?**

Requests must be in writing. Eligible employees can either:

- prepare an email or letter to their manager, stating that they are making the request under Part 6AA of the Employment Relations Act, or
- use the [Application for Changes to Working Arrangements](#) form which provides guidance on the information required. The employee completes Parts A to E of the form before giving it to their manager for consideration.

### **What information is required?**

Employees' requests must specify:

- the change(s) sought;

- whether the change(s) would be permanent or temporary;
- the proposed start date, and (if temporary) the proposed end date.

Employees must also explain what changes, if any, they think their manager may need to make if the request is approved (such as arranging access to systems and tools, or rescheduling a regular team meeting).

### **Requests are accorded a high priority**

Managers are expected to respond to flexible work requests as soon as possible, and to reach a decision no later than 1 month after receiving the request. Prior to reaching a decision, the manager may:

- seek further information or clarification (in writing) from the employee, and
- discuss the application with their Service or Group HR Advisor.

If the employee wants to change the place of work, the manager will also need to discuss the suitability of the location, resourcing requirements, and cost implications.

**Note:** *Corrections is under no obligation to either supply equipment or cover any costs that may be involved where an employee asks to work from home.*

### **Can a manager refuse a request made under ERA?**

A manager must refuse a request if the employee is bound by a collective employment agreement that covers working arrangements and the requested arrangement would be inconsistent with the collective agreement.

Specific reasons why a manager may refuse a request are set out in Part 6AA of ERA, and summarised below.

### **Why a manager may refuse a request**

Provided an employee meets the eligibility criteria, the manager's primary consideration is the impact that a change to the employee's working arrangements would have on the business.

A manager may therefore refuse a request for the following reasons:

- inability to reorganise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes
- burden of additional costs
- detrimental effect on ability to meet customer demand.

### **Notifying the employee**

The manager's decision to approve or refuse a request must be given to the employee in writing.

If the request is approved, the manager must

- seek HR advice on the need for supporting documentation, including Payroll notification.

If the request is refused, the manager must:

- notify the employee of the ground(s) for refusal, and provide an explanation of the reason(s) for it.

If the employee has used the [Application for Changes to Working Arrangements](#) form the manager can record his or her decision on the form. Alternatively, the manager can respond to the employee by a letter (attached to the Application form if used.)

### **Can the decision to refuse a request made under ERA be questioned?**

Employees who consider that their request has not been dealt with adequately could:

- discuss their concerns with their manager, or their manager's manager and/or
- seek advice from their union, or the [Ministry of Business, Innovation and Employment \(MBIE\)](#)

If the problem remains unresolved, employees are able to make a formal complaint to MBIE. However, there is no right to challenge the grounds for refusing a request if these grounds are permissible under Part 6AA of RA.

### **Documenting agreed changes to working arrangements**

Where the changes relate to days or hours of work, the Service or Group HR Advisor may need to provide advice on a variation to the employee's employment agreement. The variation might include:

- details of the daily, weekly, or fortnightly hours to be worked, including the days of the week to be worked in normal circumstances;
- duration of any trial period agreed and/or dates for reviews and a statement to the effect that continuation of the arrangement depends on the outcome of the trial or review.

Where an employee changes from **full-time to part-time** hours (or vice versa) an on-line Payroll form must be completed.

Where the changes relate to the **place of work**, a [Working from Home Agreement](#) must be completed.

### **Once the changes are in place**

Managers should review any permanent arrangements on at least an annual basis to ensure that the arrangements are working to everybody's satisfaction.

If, following a review, the employee and their manager agree that the current arrangements will not continue, any agreed date for reverting to previous arrangements (or commencing different agreed arrangements) should allow time for the employee and/or the manager to make the necessary adjustments.

### **What if the employee's situation changes?**

If an employee has a formal variation in place and their need for flexibility changes they may ask their manager to consider a different arrangement, or return to their original work pattern by agreement with their manager.

A manager's ability to agree to a different arrangement or a return to the original work pattern may depend on factors such as the availability of work, staffing levels, and/or other employees' working arrangements.

### **What if there are changes in the workplace?**

A different work arrangement, or a return to the employee's original work pattern, may also need to be considered if the circumstances that enabled the employee to change their working arrangements no longer apply.

**Monitoring and evaluation of this policy**

Feedback on this policy and associated procedures should be communicated through your HR Advisor to the policy team in Organisational Development at Head Office.

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