

# Fair Work | Fact Sheet

## Request for Flexible Working Arrangements

The information in this sheet only concerns national system employers and Victorian employers.

The information concerns the National Employment Standard (NES) provided in the Fair Work Act 2009 (Cth) (FW Act) in relation to requesting flexible working arrangements. The entitlement commences operation on 1 January 2010.

There is no entitlement to request flexible working arrangements under the Workplace Relations Act. However the right may arise under awards or workplace agreements made under that legislation.

### Entitlement

An employee with responsibility for the care of a child under school age will have the right to request flexible working arrangements so as to assist the employee in discharging that responsibility. A flexible working arrangement may be working part time instead of full time, or a change to start and finishing times at work.

An employer receiving a request can only decline the request on 'reasonable business grounds'. These grounds are not defined in the FW Act but they would include facts such as the cost to the employer of accommodating the request is excessive or that the arrangement does not allow the employee to adequately discharge his or her job. The employer cannot recruit a replacement employee.

### Eligibility

An employee may request a flexible working arrangement if requested by a parent of a child under school age or a child under 18 years with a disability, or a person with responsibility for the care of such a child (e.g. a foster parent). To be eligible to make a request the employee must have completed at least 12 months continuous service with the employer or have served at least 12 months regular casual employment.

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### Making a request

A request must be in writing and state the change sought and the reasons for it. The employer must respond to a request in writing within 21 days. If the employer refuses the request, the written response is required to include details of the reasons for the refusal. As stated above, the employee may only refuse the request on reasonable business grounds.

### Tips for Compliance

- Train managers and supervisors about this entitlement and how to deal with requests.
- Develop forms for employees to use when requesting a flexible working arrangement.
- Create a register to record requests to ensure that they are dealt with within the requisite timeframes.
- Nominate a person in the organisation to be the person to whom requests should be made.
- Formulate internal management guidelines dealing with the circumstances where it might be reasonable to refuse such requests.



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