

WORKING FROM HOME FLEXIBLE WORK ARRANGEMENTS & COVID-19

Social distancing is the most effective way that exposure to COVID-19 can be minimised.

Government and health authorities recommend that anyone who can work from home should do this. In these circumstances, if your job can be performed remotely your employer should facilitate your working from home.

You may also ask your employer for a temporary change to your working arrangement including hours and location. Where this is not possible, there may be paid special leave workers are entitled to, to protect them and others from risk of infection.

If there is a medical reason that you need to avoid attending work, you should obtain medical evidence and apply for paid personal/carers leave if you have it available to you.

If you do not have paid personal/carers leave available, or are not entitled to access it in the circumstances, you should apply to your employer for paid special leave in writing, providing reasons.

This is not yet a universal entitlement, but nothing is preventing an employer from implementing a best practice response and agreeing to provide paid leave to all their workers impacted by COVID-19, including casuals. Some industry guidance set out by government provides for further arrangements; contact the ASU if you'd like to know more.

If your employment is covered by a Modern Award, the National Employment Standards (NES) provides you with a right to request flexible work arrangements. However, this right is often less broad than flexible work entitlements under an enterprise agreement.

The NES right is only a right to request flexible work arrangements, and it is only available to employees who:

- Are the parent, or have responsibility for the care, of a child who is school-aged or younger;
- Are a carer (under the Carer Recognition Act 2010);
- Have a disability (and are qualified for a disability support pension under the Social Security Act 1991);
- Are 55 or older;
- Are experiencing family or domestic violence, or;
- Provide care or support to a member of their household or immediate family who requires care and support because of family or domestic violence.

Your employer must discuss and genuinely consider your request and only refuse on reasonable business grounds. A written response must be provided to you. Casual and non-casuals workers with at least 12 months service have this right. It is against the law for an employer to terminate your employment or treat you less favourably because you have increased family responsibilities arising from COVID-19.

Employers must also consider safety when supporting flexible work arrangements. Under OHS laws, you are permitted to refuse or cease work because you have a reasonable concern about an imminent risk to your health or safety. If you are given a reasonable direction to perform alternative work (such as working from home) you should comply with it, as long as it is appropriate and safe for you to do so.

Your flexible working arrangements rights are dependent on your award or agreement so it is important to seek advice if you have been refused a request. Knowing your rights is important for everybody, send this fact sheet to your colleagues and encourage discussion around flexible working arrangements at your organisation.

For further information please contact:

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