



ACT Health

Flexible Working Arrangements

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Purpose

The purpose of this document is to outline the ACT Health Directorate (ACTHD) procedure to provide guidance to employees and managers on the flexible working arrangements process and types of arrangements available in accordance with the relevant enterprise agreement including working interstate and overseas arrangements.

Principles

- Flexible working provisions are contained in Section E of the relevant ACT Public Sector (ACTPS) Enterprise Agreement.
- Requests for Flexible Working Arrangements are to be assessed as per the ACTPS [Flexible Working Arrangements Policy: Flexible Working Arrangements](#).
- Requests to work remotely, either interstate or overseas should be managed in accordance with the ACTPS [Flexible Working Arrangements Policy: Working Remotely Interstate or Overseas Policy](#).

Scope

Who can access Flexible Working Arrangements (FWA)?

- Any ACTPS employee including permanent officers, temporary employees, casual employees, and Statutory Office holders can request an FWA.
- Whilst anyone can request flexibility, certain employees have a legal entitlement to request FWAs under the *Fair Work Act 2009* (FW Act).

In accordance with the FW Act and clause E2 of the ACTPS Enterprise Agreements, an employee can request a FWA if the employee:

- a. seeks working arrangements to suit their personal circumstances,
- b. has parental or other caring responsibilities for a child of school age or younger,
- c. has a caring responsibility for an individual with a disability, a terminal or chronic medical condition, mental illness or is frail and aged;
- d. has a disability,
- e. is over the age of 55,
- f. is experiencing family violence, or
- g. is providing personal care, support, and assistance to a member of their immediate family or household because they are experiencing family violence,
- h. Is pregnant.

FWAs are assessed on a case-by-case basis, with the following factors considered by the delegate:

- i. the reason for the request; for example, the needs of the employee, any family or personal commitments;
- j. for First Nation employees; consideration must be given to connection to country and cultural obligations;
- k. the nature of the role; all roles can have some type of flexibility, but not all types of flexibility will work for every role. If there is a good reason a role can't have a type of flexibility, managers and employees should look for a type of flexibility that will work;
- l. the priorities of the ACT Government, directorate, branch and work team;
- m. the ways of meeting community, client and stakeholder needs without reducing service delivery;
- n. the health, safety and wellbeing of employees;
- o. the different ways of working remotely through the use of various technologies;
- p. the ability to meet privacy and security obligations, manage any risks and any significant financial impacts.

Flexible Work Options

Different types of FWAs can be negotiated, provided the entitlements and obligations in the ACTPS enterprise agreements are met. Some examples of such FWAs include, but are not limited to, one or a combination of the following:

- a. Working the same number of hours per day and varying start and finish times.
- b. Taking a few hours off work each day and making it up on a different day.
- c. Hybrid working out of various locations including working from home, another ACTPS building, interstate or overseas.
- d. Accessing leave entitlements as part of FWAs.
- e. Part-time work.
- f. Compressed work schedule such as a nine-day fortnight.
- g. Transition to retirement.
- h. Job-sharing.

Roles and Responsibilities

There may be a requirement to outline the roles and responsibilities of positions or groups/branches undertaking any activity described in this document.

Position	Responsibility
<i>Employee</i>	<i>Follow due process to request an FWA.</i>
<i>Manager</i>	<i>Assess an FWA request under the provisions of the Enterprise Agreement and related ACTPS Policies referred to in this document and make a recommendation to the delegate.</i>
<i>Delegate</i>	<i>Review and approve an FWA request.</i>
<i>People Strategy and Culture</i>	<i>To provide advice and support for implementation of FWAs; and track, record and review FWAs in place in the Directorate.</i>
<i>Shared Services</i>	<i>Maintain records of FWAs in employees' personal files.</i>

Procedure

Application process for local FWA

1. Informal Discussion

The employee should discuss their intention to apply for a FWA with their manager in the first instance. It is encouraged that such discussions are had at the earliest opportunity to increase the time available for the consideration of the request, potential impact and options available to support the request and reaching an arrangement that suits both parties.

2. Employee requests an FWA

For all FWA requests, and for employees working in business areas where hybrid working arrangements are not the default, the following forms are to be completed:

- [Flexible Working Arrangements Request Form](#)
- [Working from Home Checklist](#)

For changes to hours, employees also need to submit a request to Shared Services via the [OneGov Service Centre](#). For all other requests regarding start and finish times or a compressed schedule of hours, an attendance [roster](#) will need to be completed and submitted as part of the change of hours form on the [OneGov Service Centre](#).

3. Manager assesses the FWA request

Managers should genuinely consider a request for flexible working arrangements and provide employees with guidance on the process and assist in exploring options. Each request for a FWA must be considered on a case-by-case basis having regard to:

- the reason why the arrangement is requested
- the type of arrangement
- role requirements and suitable options available for the employee
- ability to meet the business requirements
- impact on workload of other team members.

A risk assessment of all work activities is also required in line with the [ACT Health Work Health and Safety Guideline](#)

4. Manager responds provides a recommendation to the delegate

Managers are required to provide their recommendation (approving or declining the FWA) and such a recommendation must be submitted to the executive delegate of the business unit regardless of the recommendation.

5. Delegate Response to the request

The delegate must consider the application and provide a written response to the employee within 21 calendar days of the receipt of the request.

Supporting a request – Delegate approves the request and sets a review period of three (3) months as a trial of the arrangement. Following a successful trial period, the FWA can be in place for up to three years and reviewed once every 12 months at a minimum, or as negotiated. The FWA request and decision, once approved should be sent to Shared Services using the [HR General Enquiry Form](#). A copy of the approval should also be sent to the People Strategy and Culture (PSC) Branch at HDHR@act.gov.au for record keeping, monitoring and data collection.

Declining a request – A request for flexible working arrangements may be refused on business grounds, but only after the request has been discussed with the employee, and where the manager has made genuine attempts to reach agreement having considered the employee's individual circumstances, and the manager has considered the consequences of the refusal for the employee.

Reasonable business grounds to deny a request include where any of the following apply:

- a. the new working arrangements requested by the employee would be too costly to implement, or would likely result in significant loss in efficiency or productivity, or would likely have a significant negative impact on service;

- b. there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
- c. it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;
- d. it would be a genuine risk to the health and safety of an employee(s); or
- e. demonstrable exceptional circumstances have arisen that mean the request cannot be approved.

If a request has been declined, the reasons are to be provided in writing to the employee and discussed. The written response to the employee must include:

- a. details of the reasons for the refusal;
- b. the reasonable business grounds for the refusing the request;
- c. how the reasonable business grounds apply to the request;
- d. one of the following;
 - i) provide alternative proposals for changes in the employee's working arrangements that would accommodate, to any extent, the employees circumstances.
 - ii) state that there are no alternative changes available that would accommodate, to any extent, the employee's circumstances. ACTPS Facilitating Flexible Working Arrangements Policy
- e. The dispute mechanisms available under the enterprise agreement and the ability to refer the dispute to the Fair Work Commission.

Where the requested arrangement cannot be approved, it should be explored if any other flexible arrangements can be considered. It is encouraged that PSC is contacted for advice and support in such cases. Employees who have their FWA request declined, should first discuss their concerns with their manager and can also contact for PSC guidance. Employees may, in accordance with the relevant [ACTPS Enterprise Agreement](#) request an internal review of the decision to decline the request.

6. Review of FWA

A review of the FWA should take place every 12 months as a minimum however it is best practice for new FWAs to be reviewed after 3 months. The manager should assess the FWA against the following criteria:

- Is the employee complying with all the terms of the agreement?
- Are WHS requirements being met?
- Are the agreed deliverables being met?
- Is the quality, quantity, and timeliness of the work to the agreed standard?
- Is the arrangement to the advantage or the detriment of the work area or the business and operational needs of the branch?

- Are other relevant policies of the ACTHD and ACTPS being met?

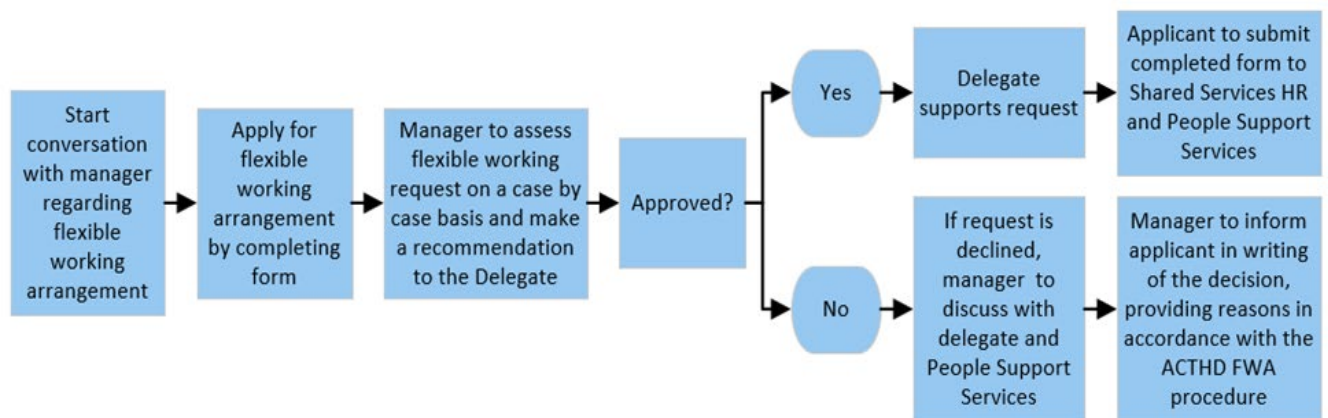
A flexible working arrangement may be revoked by either the employee or the manager following an annual review or where there are exceptional circumstances.

Revocation of a flexible working arrangement should not be considered until efforts to amend arrangements have been attempted. Reasonable grounds to amend or revoke a flexible working arrangement may include, but are not limited to, the following:

- the employee’s role has changed significantly and the current flexible working arrangement is no longer suitable;
- there is increased risk of injury or illness or where there are other work health and safety concerns; or
- there is a history of underperformance as documented in an underperformance plan or evidence of behaviour concerns.

For any modifications and/or termination of FWA, 3 months’ notice should be provided to the employee in writing unless a lesser period is agreed to by both parties or where there are extenuating circumstances.

Process Flow for Local FWA



Working Remotely Interstate or Overseas

ACTHD will consider the fair and consistent case-by-case assessment of requests to work interstate and overseas. For the purpose of this procedure, interstate does not include requests to work elsewhere in the Australian Capital Territory and surrounding NSW regional/rural towns.

Principles

There are a number of reasons why an employee may request to work remotely from interstate or overseas, which may include but are not limited to:

- Immediate family member, domestic partner or household member being posted or assigned to work interstate or overseas;
- Caring for an immediate family member who lives interstate or overseas;
- Employee requires access to medical or other care;
- Employee undertaking study that is not available locally or accessible remotely.

When reviewing such requests, the following will be considered:

- Whether the role can be performed safely in the requested location
- If the employee can remain connected to their workplace and still work effectively with their team and managers
- If the requirements of the role can be fulfilled if the employee works entirely remotely (online)
- Whether the skills of the employee are highly specialised and/or technical and in short supply with the current ACT labour market
- The length of the requested arrangement
- Any costs to the ACTHD associated with the arrangement
- Whether other employee workloads will be affected
- Whether the request is compliant with legal requirements at the home location and temporary location
- Whether information security requirements are complied with.

ACTHD application process to work remotely interstate or overseas

1. Initial Discussion

The employee should discuss their intention to apply for interstate or overseas FWA with their manager in the first instance. The employee and manager are encouraged

to enter this discussion early to enable due consideration of the request, understand the potential impact and options available to support the request to be able to reach an arrangement that suits both parties.

The employee makes a request in writing by using the [Request for Flexible Working Arrangements: Working Remotely - Interstate or Overseas Application Form](#).

2. Manager assesses the application

When considering a request to work remotely overseas or interstate, in addition to the considerations for local FWAs, a range of factors should be considered holistically which may affect the business requirements of the ACTHD, including but not limited to:

- Requirements of the role
- Hours of work
- Any WHS issues
- Financial considerations
- Legal considerations
- ICT and security considerations
- Other factors that may be specific to the role.

More information on the above can be found in the checklist available in the [ACTPS Flexible Working Arrangements Policy: Working Remotely Interstate or Overseas](#).

In assessing such a request, distance or location alone should not be the sole deciding factor. It is reasonable to refuse a request to work remotely from interstate or overseas after the request has been considered on its merits and position requirements.

3. Manager consults with the ACTHD Cybersecurity team

Managers are required to consult with the ACTHD Cybersecurity advisor to assist in the assessment of any cyber security risks and consider steps to mitigate such risks. FWA requests can be sent to ACTHealth.security@act.gov.au for this purpose.

4. Manager responds provides a recommendation to the delegate

Managers are required to provide their recommendation (approving or declining the request to work remotely interstate or overseas) and such a recommendation must be submitted to the executive delegate of the business unit regardless of the recommendation.

5. Delegate Response

The delegate must consider the application and provide a written response to the employee within 21 calendar days of the receipt of the request. Where the request is denied, the delegate is required to provide reasons* for the decision.

*see reasons in application process for local FWA step 5

6. Implementing the FWA

The FWA request and decision, once approved should be sent to Shared Services using the [HR General Enquiry Form](#). A copy of the approval should also be sent to the People Strategy and Culture (PSC) Branch at HDHR@act.gov.au for record keeping, monitoring and data collection. Any additional necessary paperwork required is to be assessed and completed, such as [Change of Working hours form](#) and attendance roster if there is a change in hours/roster under the FWA.

7. Review of FWA

Approval for FWAs both interstate and overseas is only valid for the position and role of the employee at the time of the application. If the employee moves to alternative position, a new application must be made by the employee to the gaining manager of the new role.

Interstate and overseas FWAs should be set up initially for a period of three (3) months as a trial of the arrangement. Following a successful trial period, the FWA can formally commence for a period of up to 12 months. The manager should set up a periodic review after every 3 months within this 12 month period. At the end of the FWA - Interstate or Overseas agreement, the employee is to return to their previous employment arrangement and location unless the arrangement is approved for an extension.

For any variations, amendments or cessation of the FWA, the employee is to provide written confirmation outlining the reason for the variation or cessation to the manager and is required to be approved by the executive delegate of the business unit. For any modifications and/or termination of FWA, 3 months' notice should be provided to the employee in writing unless a lesser period is agreed to by both parties or where there are extenuating circumstances.

8. ICT Devices

Managers are to consider the risk and financial responsibility of supplying ACTHD assets when approving an employee working from interstate or overseas locations. A plan should be in place to manage the possibility of devices failing or needing replacement or updating. Overseas and interstate working should be guided by the Whole of Government guidelines on government devices and system access overseas available [here](#).

Employees are responsible for the assets that are allocated to them when working interstate or overseas and are expected to take appropriate care of any laptops and hardware.

Should any asset fail whilst living interstate or overseas, the employee is responsible for contacting the appropriate area to organise repair or replacement. Should the employee not have a replacement/backup asset and cannot work, leave arrangements are required to be negotiated with the manager until the device is repaired or replaced. The employee will be responsible for any costs incurred in returning the device for replacement or repair.

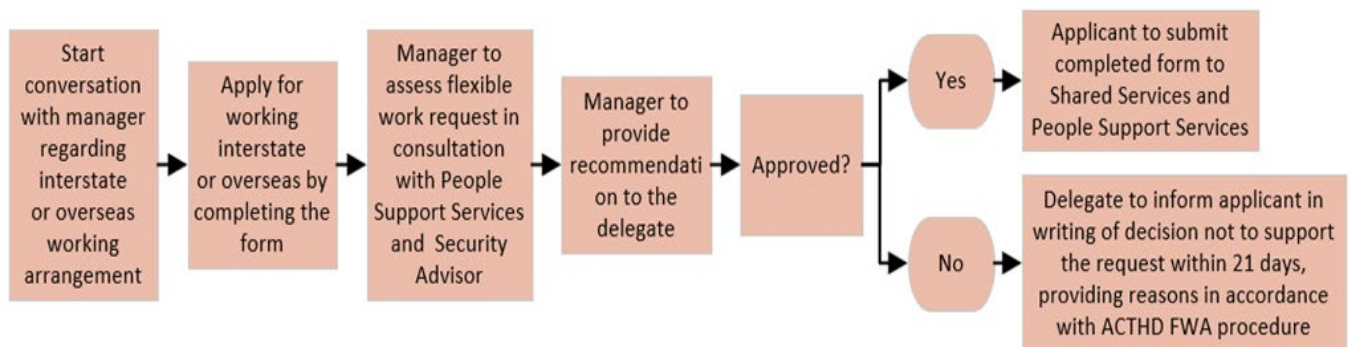
9. Travel and Accommodation Costs in visiting Office

The manager is required to assess travel, accommodation and other associated costs if the employee is required to attend an ACT office location occasionally. Limitation on number of trips and accommodation charges can be established to help manage such costs. Such arrangements should be recorded on the FWA form.

10. Public Holidays

When working remotely interstate or overseas, employees will be required to observe the ACT Public Holiday dates. When working remotely interstate or overseas, employees will be required to observe the ACT Public Holiday dates unless the employee and manager have come to an agreement to apply the public holidays available in their location.

Process Flow for Interstate/ Overseas FWA



Records Management

FWAs emailed to PSC will be managed in accordance with the *Territory Records Act 2002* and ACTHD policy and procedures.

References and Related Documents

Legislation

- [Flexible Working Arrangements Policy: Facilitating Flexible Working Arrangements](#)
- [Flexible Working Arrangements Policy: Working Remotely Interstate or Overseas](#)
- [ACT Public Sector \(ACTPS\) \[Various\] Enterprise Agreement\[s\] 2018 - 2021](#)
- [ACT Public Sector Reasonable Adjustment Policy](#)
- [Work Health and Safety Act 2011](#)
- [Work Health and Safety Regulations 2011](#)
- [Fair Work Act 2009 \(Cth\)](#)
- [Disability Discrimination Act 1992 \(Cth\)](#)
- [ACTPS Respect Equity and Diversity \(RED\) Framework.](#)

Version Control

Version	Date	Comments
1.0	February 2023	Document published
1.1	26 July 2023	Updated with the changes to the National Employment Standards

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