

Planning your request for flexible work

A checklist for employees

Flexible work can provide many options for you to manage your work commitments, as well as your other important responsibilities and goals outside work.

This checklist helps you pull together the information you gathered from the Flexible Work Request Planner chatbot so you can **plan a conversation** with your manager about your request for flexible work. When preparing to negotiate a flexible work request with your manager, you can use this checklist to confirm if your request has protections under federal and state law, and to learn more about your employer's obligations to respond and fairly consider requests for flexible work.

Let's start with using the following five steps to prepare your plan.

Preparation

Step 1

Choose the flexible work options that you would like to request, based on your situation. There may be a number of options you'd like to talk to your manager about.

The table below will help you think about the options that you want to request.

Type of flexible work	Further details to consider
☐ Changed starting and finishing times.	Your preferred hours.
☐ Working your regular number of hours over fewer days. This is a 'compressed work week'.	Your preferred times of work.
☐ Taking time off instead of receiving overtime payments. This is also known as time in lieu	When you might want to take this time off.
☐ Changing either the location of where you work or your need to travel to work. A common example is to work from home.	The preferred location/s of where you work.
☐ Part-time work: where you regularly work fewer than full-time hours.	The regular part-time hours you'd like to request.
☐ Job sharing a role between two or more people.	The days and hours of your work.

☐ Taking time off in half-days or in other flexible arrangements.	When you might want to take this time off.
☐ Other options that may be specific to your industry	

Tips

- ✓ Put these details into your plan to clearly outline in your discussion with your manager the types of flexible work you are seeking.
- ✓ It's worth taking the time to present a clear picture of what your suggested changes will look like. Examples could include details on your proposed new hours of work (such as 'work hours from 10am–6pm'), or how the specific the location of your work might change ('working from home on Thursdays').
- ✓ Make sure that you are also prepared to discuss with your manager the reasons why you are requesting these changed arrangements.

Step 2

Show how these changed working arrangements are beneficial to you and your workplace

Consider from your employer's perspective what their concerns might be about the potential impact of your changed working arrangements on the business. Make a list of possible solutions that will minimise any concerns your employer may have.

As you're preparing your request, include details in your plan that cover:

- ☐ whether or not there will be an impact on your role if you work flexibly,
- ☐ if there is an impact, consider what this looks like based on the size, nature and financial circumstances of the business.

This step is an important part of showing how you recognise that your request for flexible work needs to be realistic and workable within the context of the business. Taking the time to proactively address any concerns your manager may show that you are committed to making the changed arrangements work effectively for you, your colleagues and your employer.

Step 3

Making these arrangements work

A **trial period** can be a useful way for you and your manager to assess how the changed arrangements are working. Include in your plan:

- ☐ the length of the trial period that you suggest - between 1-3 months is a good start
- ☐ your suggestions for how you and your manager will communicate throughout the trial period. You may want to schedule a regular meeting or call, or to document your progress and challenges during the trial and discuss with your manager at the end of the trial period
- ☐ your ideas for how you'll regularly keep in touch with your team during the trial period, if this applies to your work.

Step 4

Check protections for your request under federal law

If you meet the following criteria, under the Fair Work Act you have a protected right to request flexible work, if you have been working for your employer for at least 12 months and are:

- ☐ a parent (or have responsibility for) a child who is school aged or younger
- ☐ a carer (under the *Carer Recognition Act 2010*) – if you care for/support an individual because of their specific needs, such as a disability, medical condition or age
- ☐ living with a disability
- ☐ 55 years old or older
- ☐ experiencing violence from a member of their family
- ☐ providing care or support to a member of their household or immediate family who requires care and support because they are experiencing violence from a member of their family

If you've met one or more of these criteria, your employer cannot **unreasonably** turn down your request for flexible work. These protections recognise how your request for flexible work is to help you balance your work commitments with fulfilling your responsibilities outside of work such as being a parent or carer.

Remember: You may have protections under both federal and state law. Do these protections under **federal law** apply to you?

Step 5

Check protections for your request under state law

If you are a parent or carer, or if you have a disability, your request for flexible work also has protections under the *Equal Opportunity Act 2010*.

For example, if you are a **parent or carer** requesting flexible work to help you manage your parental or caring responsibilities outside of work, your request cannot be unreasonably refused. This is because your employer has obligations to reasonably accommodate your responsibilities as a parent or carer, in the types of working arrangements they offer you.

Legal protections also apply if your request for flexible work is to help you return to work after injury or illness.

An employer's obligation to reasonably adjust the workplace for workers with a disability can cover flexible work requests, for example, if the employee has requested flexible work options such as extra breaks or time during work hours for rehabilitation, assessment or treatment. You may need to provide medical evidence for the adjustments required.

Failure to accommodate these requests or provide adjustments for people with disabilities may be discrimination in some cases.

Remember: You may have protections under both federal and state law. Do these protections under **state law** apply to you?

Tips

- ✓ You should check if your workplace policy has further information about rights to request flexible work.
- ✓ Your workplace enterprise agreement or industry award may also set out details of how flexible work requests need to be made and responded to.

Best practice – ‘all roles flex’

You can still request flexible work even if you don’t come within protections of federal or state law.

To ensure your plan demonstrates your commitment to making the changed arrangements work effectively, make sure you:

- clearly outline your request and the reasons for it
- suggest solutions to address any impacts to the business or organisation
- include proactive suggestions to collaborate during a trial period.

These details will also provide your manager with multiple pathways and solutions to consider your request in a positive light.

Pulling your request together

Collate your talking points

Now you have your notes from the preparation stage, it’s time to put all this information together into some **brief talking points**, ahead of discussing these with your manager or submitting a request.

Steps so far

To recap the steps in the preparation stage, now you have notes to clearly outline and explain:

1. the type/s of flexible work you are seeking and why
2. how these changed work arrangements are beneficial to both you and the business
3. your suggestions for how to make the arrangements work, such as setting up a trial period and checking in regularly with your manager
4. if any protections in federal law apply to your request
5. if protections in state law apply to your request.

Check the Flexible Work Request Planner to see the reasons your employer could reject your request. Not all requests will be accepted - your employer may have good reasons under the law to reject your request. These reasons are different under federal and state law.

For example, under federal law, if your manager turns down your request it must be based on ‘reasonable business grounds’, including:

- the flexible work option would be too expensive
- there’s no capacity to change the working arrangements of other employees, or recruit new employees, to facilitate the request
- if the new option results in significant loss of efficiency or productivity
- it significantly impacts customer service in a negative way.

Under state law, if your manager turns down your request, they must have considered things such as:

- the impact of the request on you
- the effect on the workplace including the financial impact, the number of people who would benefit or be disadvantageded, and the impact on efficiency and productivity.

Discussing your request with your manager

Tip

If you are concerned that you might be treated unfairly based on your request, before talking to your manager you could consider getting advice beforehand about rights and obligations with flexible work.

Getting ready for the meeting:

After checking your notes and plan, it's time to set a meeting up with your manager and let them know you'd like to discuss the request for flexible work that you've prepared.

In the meeting, you could use some of the talking prompts compiled by the Flexible Work Request Planner, to make sure you cover off key points in your discussion. This checklist will also help guide your preparation for this conversation.

Here's a sample from the Planner on how you might like to kick off your conversation:

"Thanks for meeting with me. I would like to make a request to you for flexible work. I am a dedicated staff member, and my request will help me continue to be a productive team member. I have prepared a few points I'd like to discuss with you: my request, why I am making the request, how I think that it would work for us both, and the protections for my request under the Fair Work Act."

Then you can use the notes you have prepared to explain the details of your flexible work request to your manager.

Your manager might like to go away and consider the request or might ask for more information as well. If so, make sure the next steps are clear and a date for the next meeting is set.

Tips for the meeting

- ✓ Your preparation can put you in a good place to be **flexible** during the conversation and feeling ready to consider your manager's concerns and suggest productive solutions.
- ✓ Keep in mind your **rights** to request flexible work. If you've met the criteria under federal or state law for your request to be protected, then your manager cannot just say 'no' to your request. They would need to cite reasonable business grounds why they decided to refuse your request for flexible work; and provide reasons for this decision.
- ✓ Be prepared to **negotiate** with your manager during the meeting, to try and reach a suitable compromise. Your preparation stage might have shown you that not all requests may be entirely possible, and your manager might have reasonable grounds to refuse your request.

Requests in writing

After your meeting, you may need to submit your request in writing. Not all requests for flexible work need to be in writing.

A written request is a requirement under federal law if your request has specific protections under the Fair Work Act. Your manager then has obligations to respond to your request in 21 days and outline their response and reasons for their decision.

Otherwise, you may like to put your request into writing to have a record, or it may be a requirement of your organisation.

Options if your request is rejected

If an employer unreasonably rejects a request for flexible work, it may be considered discrimination under the Equal Opportunity Act.

If an employer treats an employee unfavourably because of their disability, parent or carer responsibilities this may also be discrimination under the Equal Opportunity Act. If a person faces retaliation because they made a request for flexible work this may be considered victimisation, which is against the law.

If you think you have experienced discrimination or victimisation, you can get in touch with the Victorian Equal Opportunity and Human Rights Commission to understand your options.

You also have options under federal law, and you can contact the Fair Work Ombudsman to learn more about these details.

Further resources

Victorian Equal Opportunity and Human Rights Commission

- [Flexible work](#)
- [Information for parents and carers](#)
- [Get help](#): information about discrimination and how to make a complaint

Fair Work Ombudsman

- [Best practice guideline](#): work and family