



28 November 2024

Tēnā koe

Official Information Act request

Thank you for your email of 15 October 2024, requesting information about the Ministry's Waikato offices and policy about working from home.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on each part of your request set out below.

- *The current total number of staff within the organisation whose main location of work is in Waikato.*

As at 17 October 2024, 610 (603.5 FTE) Ministry staff had a work address in Waikato.

- *How many staff are required to be physically present in the office for more than two days a week? What percentage of employees were able to work from home in 2022, 2023, 2024?*

The majority of our Waikato staff work in roles that require an office environment in order to meet the needs of our clients, this includes face-to-face interactions. Working from home is one element of flexible working. For flexible working (e.g. work hours, work pattern, work location) to be agreed to, it needs to suit the organisation, the team and the employee. Where all needs can be met, an employee can have the ability to work flexibly. All employees are able to work flexibly and have been able to since 2020 in line with the Public Service Commission's policies and expectations to be flexible by default.

- *How many new roles had been advertised between the period 1/09/2024 and 15/10/2024?*

Six new roles were advertised in this period.

- *For new roles advertised within the period, how many require staff to be physically present in the office for more than two days a week, how many have no office presence requirements, and how many require full time presence in the office?*

Some roles, in particular frontline service roles, make it difficult to work away from the office but can have elements of flexible working incorporated into them (for

example, flexible start and finish times). Where a role is location specific, then that is the base but the ability to work flexibly remains.

For example, a role based in one of our regional offices may require you to work at that office, but still allow someone to work flexibly with agreement from their manager depending on the work that a person does. Someone could hold a Regional Office based role but be based in another city or region to that office. In that case, there will be an agreement as to how often the employee is required to be at the office that their role is based at, and/or what their actual work location is (e.g. They could work out of the nearest local office). This is another form of flexible working.

- *Current HR policy regarding working from home, or days in the office*

Please see attached the Flexible Working Guidelines, the Flexible Working Policy and the Reasonable Accommodation in Employment Policy.

- *Please provide organisational wide correspondence for the following request: Internal correspondence, including emails and meeting minutes regarding working from home or return to the office mandates, for the period between August 2024 and October 2024.*

We have interpreted your request to mean Ministry-wide correspondence about changes to working from home or the return to office mandates. There has been no Ministry-wide correspondence regarding our flexible working policies or the return to office mandates. If this was not the intent of your request, please contact us.

The Ministry is currently waiting for Public Service Commission guidance to understand what, if anything, needs to change with our flexible working policies.

There was one memo found regarding our flexible working policy. This was not organisational-wide correspondence, but in the spirit of being helpful, I have provided you with a summary of this memo under sections 16(1)(e) and 16(2)(c) of the Act, as providing the information to you in its original format would prejudice the interests protected by sections 9(2)(ba)(ii) and 9(2)(g)(i):

- To protect information that is subject to an obligation of confidence, and if released, would be likely to damage the public interest and
- To protect the effective conduct of public affairs through the free and frank expression of opinions.

This paper outlines steps to strengthen flexible working from home practices that will meet expectations of the Government and be consistent with changing Public Sector guidance.

Under Kia Toipoto (Public Service Pay Gaps Action Plan 2021-24) the PSC has outlined an expectation of 'Flexible by Default' which supports our people in entering formal and/or informal arrangements that can be permanent or temporary in nature. The intent behind this was to ensure a fairer and more equitable workplace for kaimahi with family responsibilities or lifestyle needs that required a greater degree of flexibility.

A flexible working approach (also called Hybrid working by the PSC) was introduced during Covid with the need for organisations to create greater flexibility for where

work was done, to keep their people safe during the pandemic and to maintain the delivery of services and outcomes.

The memo details the Public Service Commission (PSC) direction to clarify the recent expectations communicated by the government, to government agencies and discusses the PSC review of the current policy. It then details themes and possible impacts of any future changes.

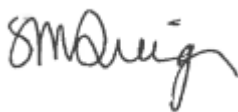
The Ministry's next steps are to wait for further direction from the PSC, to compare to our existing guidance and identify any differences. We are working on a reporting approach for flexible working, and we will continue to engage with the Public Service Association (PSA).

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

pp. 

Magnus O'Neill
General Manager
Ministerial and Executive Services

Flexible Working Guidelines

This guide provides advice on how to approach and manage flexible working at the Ministry of Social Development (MSD) so employees and managers can fully consider flexible working arrangements and ensure arrangements meet the operational needs of the organisation and, the team, as well as the needs of individuals.

On this Page:

Introduction

MSD is a service delivery organisation helping New Zealanders to be safe, strong and independent through a wide range of services. Doing this successfully means we have to have face-to-face engagement and collaboration with clients, colleagues and partners within core business hours.

This guide provides advice on how to approach and manage flexible working at MSD so employees and managers can fully consider flexible working arrangements and ensure any arrangements meet the operational needs of the organisation and the team, as well as the needs of individuals.

How to use this guide

This guide is to be used in conjunction with the Flexible Working Policy and an individual's employment agreement and outlines the steps to follow when requesting, considering and making a decision around formal or informal flexible working arrangements.

[Flexible Working policy \[http://doogole/resources/helping-staff/policies-standards/hr/flexible-working-policy.html\]](http://doogole/resources/helping-staff/policies-standards/hr/flexible-working-policy.html)

About flexible working

What is flexible working?

Flexible working is about people having options around how they work and can include adjustments to when and where they work.

Because our people and the work they do is so diverse, 'flexible working' will be different for people depending on the work they do, the team situation and their individual needs. Different flexible working options may suit different types of roles and not all types of flexibility will work for all roles or situations.

Types of flexible arrangements

The below table indicates a range of flexible working arrangements:

Flexi-Time	Flexi-leave	Flexi-place	Flexi-role/Career
Options that allow employees to vary their work hours or days on a regular basis or from time to time	Options that allow employees to vary their leave patterns to create more flexibility	Options that allow employees to work from locations other than their designated workplace	Options that allow employees to manage their roles and careers more flexibly

flexible start and finish times • eg variable start and/or finish. times are worked on a regular or as needed basis swapping workdays or hours with non-work hours or days • part-time hours compressed week or fortnight eg full-time employees work longer days over a four-day week or nine-day fortnight flexible shifts - full time or part time fixed shifts - full time or part time combination of fixed shifts and flexible shifts - full time or part time	leave without pay • term-time working eg working during school terms and taking leave during school holidays other types of leave eg study leave, special leave	working from another location • eg another MSD office or home regularly or from time- to-time working from another location - part time • working from another location temporarily as part of a return to work plan • Note that we cannot approve • requests to work overseas (other than business-related travel such as conferences) •	phased return to work eg employees gradually increases their hours on returning from long-term leave phased retirement eg employees gradually reduce their hours as they approach retirement seasonal working eg to cover busy periods job sharing eg splitting a role with another employee taking career breaks
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Informal vs formal flexible working arrangements

Flexible working arrangements can be informal or formal.

Informal flexible working arrangements (on a regular or ad hoc basis) usually occur where a manager has agreed that employees have flexibility over when and where they carry out their work, as long as organisational responsibilities and team deliverables are met. This can mean that the exact arrangements (times or place of work) vary and are agreed between managers and employees as and when needed. It can also involve agreements of more regular arrangements, such as regular changes to start and finish times, as long as the arrangements don't require changes to pay or employment terms and conditions.

Formal flexible working arrangements involve a recurring work arrangement that will impact on pay or involves changes to employment terms and conditions such as working hours, patterns and/or location. It may take place for an agreed period or on an ongoing basis with regular review. A request for formal flexible working must be made in writing by an employee or on their behalf.

Why have flexible working?

When people have flexible working options, they are more likely to enjoy their work and experience a good work-life fit. This contributes to creating a positive workplace culture at MSD, helping MSD deliver excellent services to our clients.

Flexible working can have a range of benefits.

Eliminating pay gaps

Increasing diversity and inclusion

Attracting and retaining talented people

Increasing employee productivity

Supporting business continuity.

Eliminating pay gaps

Flexible working is one of the focus areas of the Government and MSD's Gender Pay Gap Action Plan because women still take on most family care work and are currently more likely to work flexibly than men. Having flexible working options for all types of roles will help break the association between working flexibility and stalled careers.

Research suggests that men face barriers to accessing flexible working which limits their ability to invest more in family care responsibilities. Increasing men's access to workplace flexibility also has the potential to even out the distribution of family-caring work and help close the gender pay gap.

Increasing diversity and inclusion

MSD is committed to increasing diversity and inclusion to ensure our workforce reflects, values and understands the communities we serve. Workplace flexibility is a big enabler of diversity and inclusion in the workplace and supports increased diversity in leadership. Flexibility is one of the main tools for disabled people to secure and succeed in employment. Disabled people are currently employed less in the Public Service than the private sector.

Māori, Pasifika and Asian women can face the compounding impact of gender and ethnic bias, leading to wider pay gaps than those experienced by Pakeha women. Flexible working can help address ethnic, as well as gender bias, by recognising and

respecting the responsibilities employees have outside of their paid work, including cultural and/or religious responsibilities, and community and family/whānau care responsibilities.

Attracting and retaining talented people

Flexibility is a key enabler of talent retention. It supports transitions between, or blending of, work across different life stages, study, professional development, parenting, ill health or rehabilitation, retirement and more. Rather than requiring people to 'opt in' or 'exit out' of the workforce, flexibility can create a phased or graduated transition, optimising succession management and maintaining business continuity by maximising the retention of skills and institutional knowledge.

Work-life boundaries have become increasingly permeable. Most people have expectations that work will blend with other parts of their life – rather than dominating it. For these reasons and more, people value being able to work flexibly and will actively seek it when selecting an employer.

Increasing employee productivity and engagement

Engaged employees are more productive. The reverse is also true, with workplace stress and poor organisational health reflected in high rates of sick leave and low rates of employee engagement. Workplace flexibility enables work to be tailored to both the employer's and employee's needs and can be changed over time as required. The result is more engaged employees and a more agile workplace. For an employer, this translates into higher productivity.

Supporting business continuity

Flexible working allows for better business continuity before, during and after a disaster has occurred. People may need to do different things or to do things differently to keep our services going. It may mean working different hours, different days or from different locations to get the most important work done. Flexible working can help us mobilise quickly to make sure we can keep delivering because people are used to working differently. For business continuity, employees and managers would together complete a relevant risk assessment when working in different locations. Check out the resources in Part Four for a link to the risk assessment document.

Who can request a flexible working arrangement?

Any employee can make a request for permanent or temporary changes to their pattern or place of work.

All requests for flexible working arrangements will be considered in line with the requirements of the [Employment Relations Act 2000](http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html) [http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html] – taking into account the needs of the organisation, the team and the individual.

Employees affected by domestic and family violence

Employees affected by domestic and family violence may request flexible working arrangements for up to two months to allow them to deal with the effects of domestic or family violence (regardless of how long ago the violence occurred).

For further information you can refer to [MSD's Domestic and Family Violence Policy](http://doogole/resources/helping-staff/policies-standards/hr/hr-policies/domestic-violence-policy/domestic-and-family-violence-policy.html) [http://doogole/resources/helping-staff/policies-standards/hr/hr-policies/domestic-violence-policy/domestic-and-family-violence-policy.html] and/or seek advice from AskHR or your HR Advisor.

Flexible working principles

If not, why not? All roles are treated as flexible unless there is a genuine business reason for a role not to be. Flexibility is equally available to women, men and gender-diverse employees, irrespective of the reason for wanting it. Working flexibly does not undermine career progression or pay.	Works for the Role Every role should be suitable for some form of flexibility but not every type of flexibility will work for every role. Genuine business reasons may mean that some types of flexibility cannot be implemented for some roles.	Works for MSD and teams Flexible working should not be viewed as something which is just agreed between an employee and manager. This means that the impact of flexible arrangements should be considered on teams, and MSD as a whole.
Requires give and take Flexibility requires give and take between the employee, manager and team. It also places collective obligations on employees, managers and teams to be open and adaptable so that it works for everyone.	Mutually beneficial Flexible working needs to work for MSD, teams and employees. Consideration should be given to how flexible work arrangements can maintain or enhance service delivery and the performance of MSD, teams and employees. It should not result in increased workloads for employees	Actively championed by leaders Leaders support, champion and role model flexible working for their teams and themselves.

working flexibly, or for other team members who are not.

Does the request work for the organisation?

When considering requests we need to consider the needs of the organisation, the work we do and the impact the arrangement may have.

Setting the organisational perspective

To ensure flexible working arrangements will work for the organisation level three Managers (as defined by [HR Delegations \[https://doogie.ssi.govt.nz/resources/helping-staff/policies-standards/hr/delegations/hr-delegation-levels.html\]](https://doogie.ssi.govt.nz/resources/helping-staff/policies-standards/hr/delegations/hr-delegation-levels.html) which includes roles like Group General Managers, General Managers and Regional Commissioners), will decide what flexible arrangements will work for their area of the organisation. Different business groups have different work demands and operating environments. Level three managers will ensure their managers have a good understanding of how flexible work can work successfully within their group.

Level three managers also need to understand the context for all of MSD and other business groups. They need to make sure that any decisions they make within their group do not have negative impacts for other groups or are inconsistent with MSD's overall approach eg staff being available at certain times to provide services to clients, stakeholders or other teams.

Requests to work overseas:

We cannot accommodate requests from MSD staff who want to work overseas, no matter how long or short the time. There are many security, legal, financial, and health and safety reasons for this. Managers don't have the authority to approve requests to work overseas. If people need to visit family overseas, this needs to be organised using leave.

Work is underway to deliver a more strategic solution for safe, secure and legal offshore connectivity, but it will take time.

Please note, this does not affect work-related international travel, such as attending conferences. [International travel - Doogie \(ssi.govt.nz\) \[https://doogie.ssi.govt.nz/helping-you/travel-and-transport/travelling-for-msd-work/international-travel.html\]](https://doogie.ssi.govt.nz/helping-you/travel-and-transport/travelling-for-msd-work/international-travel.html)

Does it work for the team?

Setting expectations for the team

To ensure flexible working arrangements work for the team, it is recommended that you have a team conversation about your core service and service expectations and how flexible working could work for the team as a whole.

Below are some suggested discussion points to help set expectations for your team and guidance around establishing flexible working norms within your teams.

What's your core service?

Discussing your core service is key to helping clarify expectations and flexible working norms. Some things to think about and discuss include:

- the work the team does
- the way the work is conducted (including core coverage/service hours)
- how the work contributes to MSD's purpose.

Expectations of the business, clients and stakeholders

MSD is a service delivery organisation – the nature of our work requires us to engage with stakeholders and clients, to collaborate with other business areas and agencies. When discussing flexible working options for your team, the service expectations of these groups needs to be taken into consideration.

Working from home is not practical for all roles eg those which require face-to-face client or stakeholder contact or regular access to large volumes of physical records due to security issues (eg information security, physical security). Some roles require business applications that cannot currently be accessed remotely, such as client information systems and therefore, it may not be possible or practical to perform these kinds of roles at home.

Non-negotiables

We recommended you include any non-negotiables in your team discussion. This could include the requirement to attend regular team meetings (or the weekly brief), or expectations of stakeholders and clients that our people are available and accessible during core business hours.

Please note that working overseas is a non-negotiable for everyone. We cannot approve requests to work overseas, no matter how long or short the time. There are many security, legal, financial, and health and safety reasons for this. People need to visit family overseas, this needs to be organised using leave. **Please note**, this does not affect work-related international travel,

such as attending conferences. [International travel - Doogle \(ssi.govt.nz\) \[https://doogle.ssi.govt.nz/helping-you/travel-and-transport/travelling-for-msd-work/international-travel.html\]](https://doogle.ssi.govt.nz/helping-you/travel-and-transport/travelling-for-msd-work/international-travel.html)

Discussing flexible working options with the team

Involving teams in discussion around flexible working is key to having successful flexible teams. Discussing flexible arrangements with the team will provide them with an opportunity to provide input on how flexible work arrangements can work, any potential impacts on the team and to work through concerns. We suggest teams discuss and record any reciprocal expectations or norms of behaviour, to help flexibility operate smoothly across teams.

The privacy of individuals is important. Team discussions should focus on the type of arrangement a person has requested, not the reasons for the request. If an employee wishes to disclose the reasons for the request, they can, but this is not a requirement for team discussions.

When discussing with the team you should:

- provide an overview of the arrangement requested
- provide an overview of how the arrangement is proposed to work
- provide an opportunity for team members to discuss concerns or alternatives
- discuss the changes that may need to be made.

Note: Managers, if you are planning a team discussion and would like some advice, support or help with facilitating that session, you can talk with your HR Business Partner or contact AskHR.

Informal flexible arrangements

Examples of Informal Flexible Working arrangements

An informal flexible working arrangement is an arrangement that doesn't require changes to pay or employment agreements. The exact arrangements (times or place of work) can vary, be regular or ad hoc and are agreed between managers and employees as and when needed verbally or by email. To guide you in making an appropriate request, here are some examples of informal flexible working arrangements:

- Starting or leaving early and making up time on another day
- A one-off agreement to work from another location for the day or part of the day
- A regular agreement to work from another location on a particular day of the week
- A regular agreement to start and finish at a particular time between core business hours.

How to make a request for informal flexible work

Some flexible arrangements, so long as they work for the organisation and team, can be managed on an informal basis and agreed between employees and their managers without going through a formal request and response process.

Informal arrangements:

- are generally appropriate for flexibility that doesn't involve changes to pay or employment agreements
- may be established at the request of an individual employee or by a manager proactively offering informal arrangements
- may involve ad hoc arrangements which are agreed between managers and employees
- on an as-needs basis, such as variable start and finish times and/or working from another location on some days
- may also involve regular arrangements such as specific start and finish times on particular days or regular days an employee will work from another location
- should involve give-and-take on the part of the employee, manager and team, to ensure team delivery is maintained.

Considering a request

Managers should approach employee requests for ad hoc or regular informal arrangements, in an open-minded and fair way, and focus on exploring all available alternatives that will work. Employees making a request, and their managers should familiarise themselves with [MSD's flexible working policy \[https://doogle.ssi.govt.nz/resources/helping-staff/policies-standards/hr/flexible-working-policy.html\]](https://doogle.ssi.govt.nz/resources/helping-staff/policies-standards/hr/flexible-working-policy.html), any limitations on flexibility relating to particular roles and on the flexibility Principles, keeping in mind that any flexible arrangements will need to fit with MSD's responsibilities, with the team's functions and deliverables and the employee's role. Consider the health and safety aspects of your employee working in a different location, any information security issues that may arise and the impact on the employee if the request is not approved.

Responding to a request

Informal types of arrangements can be agreed verbally between managers and employees; however, it is best practice to record agreements in email where possible. If managers and employees agree on regular arrangements, record these by email including regular review periods to provide more certainty and clarity. This may be helpful if a manager leaves or any issues arise with the flexible arrangement that need to be worked through.

Formal flexible working arrangements

Examples of Formal Flexible Working arrangements

A formal flexible working arrangement is a recurring work arrangement that will impact on pay or involves changes to employment terms and conditions such as working hours, patterns and/or location. To guide you in making an appropriate request, here are some examples of formal flexible working arrangements:

A change in the total number of hours worked in a week (eg moving from full-time to part-time or vice versa)
a change in work schedule (eg working longer hours some days and less on others or compressed weeks or fortnights)
a change in work location (eg working from an alternative location for your full working hours)

How to make a request for formal flexible work

Employees need to:

discuss their request to work flexibly with their manager
submit their request for formal flexible working arrangements in writing to their manager including:
their name
date of their request
that the request is being made under Part 6AA of the Employment Relations Act (ERA)
the desired working arrangement, and whether it's permanent or for a fixed period of time
the date the proposed new working arrangement will take effect and, if the new working arrangement is for a fixed period of time, the date the new working arrangement will end
what changes (if any) the manager may need to make if the request is approved, eg changes to the way the team works together, changes to the physical set up of the workplace.

Tips for employees making a request:

Familiarise yourself with MSD's [flexible working policy](https://doogie.ssi.govt.nz/resources/helping-staff/policies-standards/hr/flexible-working-policy.html) [<https://doogie.ssi.govt.nz/resources/helping-staff/policies-standards/hr/flexible-working-policy.html>] and consider any limitations on flexible working options for your type of role.

Talk with your manager about your interest in flexible working. This is a chance to talk about the requested work arrangement in depth. While there is no requirement to provide a reason for your request, providing some information and focusing on why you are seeking flexibility, rather than on one specific type of arrangement, will help both you and your manager explore all the options available that might work for you and the team. This is also a chance to identify any barriers or issues and develop solutions on how these can be managed.

Complete the request form and submit it to your manager.

Considering a request

Under [Part 6AA Flexible working](https://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html) [<https://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html>] of the ERA managers must consider requests for flexible working arrangements in a fair-minded way and in good faith. Managers must respond to requests as early as possible but no later than one month after receiving the request.

Ensure the request includes all the information needed. If it doesn't, ask your employee to re-send the request when complete and let them know what they need to include.

Acknowledge the request in writing.

Meet face-to-face with your employee to discuss the requested working arrangement in depth and consider how it could fit with MSD responsibilities, with the team's functions and deliverables and the employee's role.

Approach the request in an open-minded way, focusing on finding solutions that will work. To get the most from the meeting you should:

make a list of the issues you want to discuss at the meeting

familiarise yourself with MSD's flexible working policy, the rest of these guidelines and the 'Making flexible working effective' tips for managers.

Some important questions to consider when making your decision.

Is reorganising work necessary, and if so, how can it be managed?

Does the employee understand their commitment to their team under the new arrangement?

Are there peaks and troughs of demand in the business that this new arrangement could meet?

Are there health and safety implications (for example if the employee is [working from home](https://doogie.ssi.govt.nz/working-here/keeping-healthy-and-safe/health-and-safety-in-the-workpalce/working-from-home/index.html) [<https://doogie.ssi.govt.nz/working-here/keeping-healthy-and-safe/health-and-safety-in-the-workpalce/working-from-home/index.html>] or if they are working alone late/early or out of core-business hours).

If the form of flexible working requested can't be accommodated, which types could? Have these been fully explored with the employee?

What would the impact be on the employee if the request was not approved?

Before making your decision, you should discuss the requested arrangement with your team. You are responsible for deciding on the request, but it is useful to engage with the team as soon as possible as team members share responsibility for making flexible arrangements work and may have questions and concerns that are best worked through collaboratively.

Contact your HR Advisor/AskHR to understand whether the new working arrangement means changing your employee's pay and what the impacts might be on holidays and leave.

Discuss the detailed arrangement with the employee, including a period during which the effectiveness of the arrangement will be tested eg three months followed by annual reviews.

Responding to a request

Approving the request:

Once you've considered your employee's request for flexible working arrangements, give them your decision in writing. You must deal with a request no later than one month after you receive it or 10 working days where the request is due to domestic or family violence. (Note: these timeframes are statutory requirements under Section 69AAE of the ERA).

Remember because this is a formal request it will require a variation to the employee's terms and conditions of employment, and must be recorded in writing,

Reconfirm with your team the previously agreed mutual expectations and behaviour norms

Finally:

inform your HR Advisor/AskHR so that they can update the HR records,

consider if health and safety requirements are still satisfied. This might be relevant if the employee is going to be working from another location or alone out of core business hours.

Refusing the request:

Note: Managers, if you are considering refusing a flexible working request and would like some advice, you should talk with your manager and/or contact AskHR or your HR Consultant for advice.

You can only refuse a formal request for flexible working arrangements under Part 6AA of the ERA under certain grounds. These grounds are stated in section 69AAF as follows:

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.

However, an employer **must** refuse a request if:

the request is from an employee who is bound by a collective agreement and
the request relates to working arrangements to which the collective agreement applies, and the employee's working arrangements would be inconsistent with the collective agreement if the employer were to approve the request.

Under the ERA when declining a request, managers must, in writing and no later than 1 month from receiving the request:

state the request is refused because of a ground in section 69AAF(2) or (3); and
state the ground for refusal; and
explain the reasons for these ground/s applying to the employee's circumstances

Disagreement about decisions

Most requests will conclude when the manager gives their decision. There may be instances where an employee feels their request has not been fully considered or dealt with appropriately. The employee may want to involve a third party (eg union or colleague support) or make a formal complaint. There are a number of options available.

First off, try to resolve the problem together by informal discussion between the employee and manager.

Issues could include:

miscommunication and not understanding the other's viewpoint
the time limit has not been met

alternative options may not have been discussed.

Talk through the concerns and see if you can resolve them. It may take more than one meeting and some compromise.

If the concerns cannot be resolved between the employee and the manager, then the employee can request a review of decision by escalating this to their manager's manager, who will review the request and decision, or they may refer the matter to mediation or the Employment Relations Authority for determination under section 69AAI where mediation fails to resolve the matter.

[Flexible working arrangements employee request form](http://doogle/documents/working-here/hr/flexible-working-arrangements-employee-request-form-20200219-1-.docx) (Word 46.63KB) [<http://doogle/documents/working-here/hr/flexible-working-arrangements-employee-request-form-20200219-1-.docx>]

[Formal flexible arrangements process flow](http://doogle/documents/working-here/hr/formal-flexible-arrangements-process-flow.pdf) (PDF 131.99KB) [<http://doogle/documents/working-here/hr/formal-flexible-arrangements-process-flow.pdf>]

Responding to requests for Employees affected by Domestic Violence/Refusing a request

A person affected by domestic or family violence may request short-term changes to their working arrangements lasting up to two months to help them deal with the effects of domestic violence (regardless of how long ago the violence occurred). For example, to relocate, settle children into school, attend legal proceedings, medical, counselling, other appointments, or to rest and recover from the effects of domestic violence. All requests will be considered and accommodated wherever possible.

Employment terms that can be varied:

Under Part 6AB an employee can request variation to the following terms:

the location of the employee's workplace

the employee's duties at work

the extent of the contact details that the employee must provide to the employer,

any other term of the employee's employment:

o that is not a term covered above in this definition or in the definition of "working arrangements" above and

o that, in the employee's view, needs variation to enable the employee to deal with the effects of being a person affected by domestic violence.

Responding to a request

The process for responding to requests for flexible working from employees affected by domestic and family violence is largely the same as the formal request for flexible working process. However, the following process must be followed.

When responding to a request for flexible working under Part 6AB we must:

deal with the request as soon as possible, but not later than 10 working days after receiving it

notify the employee in writing whether his or her request has been approved or refused

provide the employee with information about appropriate specialist family violence support services.

Refusing a request

Under [section 69ABF](https://www.legislation.govt.nz/act/public/2000/0024/latest/LMS186659.html) [<https://www.legislation.govt.nz/act/public/2000/0024/latest/LMS186659.html>] an employer may refuse a request under Part 6AB only if the employer determines that the request cannot be accommodated on one or more of the following grounds:

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.

Note: MSD does not require evidence of domestic violence and therefore this would not be a ground for refusal at MSD (even though this is grounds for refusal under the Part 6AB).

An employer **must** not refuse a request just because:

the request is from an employee who is bound by a collective agreement and

the request relates to working arrangements to which the collective agreement applies and

the employee's working arrangements would be inconsistent with the collective agreement if the employer were to approve the request.

For further information you can refer to [MSD's Domestic and Family Violence Policy \[https://doogole.ssi.govt.nz/resources/helping-staff/policies-standards/hr/hr-policies/domestic-violence-policy/domestic-and-family-violence-policy.html\]](https://doogole.ssi.govt.nz/resources/helping-staff/policies-standards/hr/hr-policies/domestic-violence-policy/domestic-and-family-violence-policy.html) and/or seek advice from AskHR or your HR Advisor.

Making flexible working effective

Teams working flexibly are most successful when delivery expectations are clear and the quality of team deliverables are measured against these expectations, rather than by hours in the office. Team members, whether they work flexibly or not, do their best work when they manage their time, deliver to expectations and maintain good lines of communication with their managers and the rest of the team. When working flexibly, it is especially important that managers, employees and teams talk regularly about flexible arrangements, how they are working and how any challenges can be addressed.

There can be a perception that flexible work, especially working from another location, can result in under-delivery. Performance issues can arise with any work arrangement and being visible in the office is no guarantee that employees will deliver to expected standards. Managers should therefore be careful not to assume that it is the flexible work arrangement which is causing any performance issues, when that may not be the case. If there are underlying performance issues managers should manage these in the way they would with any employee, regardless of their working arrangement.

[Tips for managers \[http://doogole/working-here/working-for-us/flexible-working/flexible-working-tips-for-managers.html\]](http://doogole/working-here/working-for-us/flexible-working/flexible-working-tips-for-managers.html)

[Tips for employees working flexibly \[http://doogole/working-here/working-for-us/flexible-working/flexible-working-tips-for-employees-working-flexibly.html\]](http://doogole/working-here/working-for-us/flexible-working/flexible-working-tips-for-employees-working-flexibly.html)

[Tips for working in flexible teams \[http://doogole/working-here/working-for-us/flexible-working/flexible-working-tips-for-working-in-flexible-teams.html\]](http://doogole/working-here/working-for-us/flexible-working/flexible-working-tips-for-working-in-flexible-teams.html)

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Flexible Working Policy

This page outlines the Ministry of Social Development's flexible working policy.

On this Page:

Purpose

The Ministry of Social Development (MSD) is a service delivery organisation helping New Zealanders to be safe, strong and independent through a wide range of services. Doing this successfully requires us to have face-to-face engagement and collaboration with clients, colleagues and partners within core business hours.

This Policy provides guidance and clarity for employees and managers so they can fully consider flexible working arrangements and ensure arrangements meet the operational needs of the organisation and the team as well as the needs of individuals.

Having flexible working options helps MSD to:

be a good employer

build a more diverse and inclusive workplace

enhance the ability to deliver better outcomes for the public in normal and crisis times

attract and retain diverse talent

honour our commitments to eliminating pay equity gaps

create an agile and resilient organisation, able to ensure business continuity in times of crisis

give effect to the Gender Pay Principles

support the mental health and wellbeing of MSD employees.

Policy statement

Flexible working can be across a range of areas including different work hours, leave patterns, location of work or flexibility within a role. To meet MSD's operational objectives, we need to be responsive and collaborate, this means that for some roles options such as working mostly from another location are less likely to fit well within our business context. Flexible working arrangements will need to fit with MSD's responsibilities, with the team's functions and deliverables and the employee's role.

Because our people and the work they do is so diverse, flexibility will be different for our people depending on the work they do, the team situation and their individual needs. Different types of flexibility may suit different types of roles. Managers, teams and individuals should formally agree what could work for them in their operational context.

Flexible working arrangements must be consistent with our obligations under the Health and Safety at Work Act 2015, Employment Relations Act 2000 and MSD's Code of Conduct.

Arrangements must not impact the delivery of services, compromise health and safety, information security or privacy obligations.

This policy is not intended to be used when MSD initiates people working from another location for a specified period of time (three months to two years). In these situations, MSD's [Remote Working Policy \[https://doogole.ssi.govt.nz/resources/helping-staff/policies-standards/hr/remote-working-policy.html\]](https://doogole.ssi.govt.nz/resources/helping-staff/policies-standards/hr/remote-working-policy.html) will apply.

This policy complements MSD's Reasonable Accommodation in Employment Policy which relates to adjustments within the workplace.

This policy is based on and aligned to, Public Service flexible-by-default principles and Gender pay principles. MSD supports people to request flexible working arrangements and will consider these taking into consideration the needs of the organisation, the team and the individual. MSD will comply with the requirements of the [Employment Relations Act 2000 \[http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html\]](http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html).

Scope

This policy applies to all MSD employees.

Principles

Te Kawa Mataaho – Public Service Commission MSD has established six principles for flexible working. These principles underpin flexible working arrangements at MSD:

If not, why not?	Works for the role
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<p>All roles are treated as flexible unless there is a genuine business reason for a role not to be. Flexibility is equally available to women, men and gender diverse employees, irrespective of the reason for wanting it. Working flexibly does not undermine career progression or pay.</p>	<p>Every role should be suitable for some form of flexibility but not every type of flexibility will work for every role. Genuine business reasons may mean that some types of flexibility cannot be implemented for some roles.</p>
<p>Works for agencies and teams</p> <p>Flexible working should not be viewed as something which is just agreed between an employee and manager. This means that the impact of arrangements should be considered on teams and the agency as a whole.</p>	<p>Requires give and take</p> <p>Flexibility requires give and take between the employee, manager and team. It also places collective obligations on employees, managers and teams to be open and adaptable so that it works for everyone.</p>
<p>Mutually beneficial</p> <p>Flexible working needs to work for the agency, teams and employees. Consideration should be given to how flexible work arrangements can maintain or enhance service delivery and the performance of agencies, teams and employees. It should not result in increased workloads for employees working flexibly, or for other team members who are not.</p>	<p>Actively championed by leaders</p> <p>Leaders support, champion and role model flexible working for their teams and themselves.</p>

Specific types of flexible arrangements

This is an overview of some of the more common types of flexible working.

Flexi-time	Flexi-leave	Flexi-place	Flexi-role/Career
<p>Options that allow employees to vary their work hours or days on a regular basis or from time to time</p>	<p>Options that allow employees to vary their leave patterns to create more flexibility</p>	<p>Options that allow employees to work from locations other than their designated workplace</p>	<p>Options that allow employees to manage their roles and careers more flexibly</p>
<p>flexible start and finish times ie variable start and/or finish times are worked on a regular or as needed basis</p> <p>swapping workdays or hours with non-work hours or days</p> <p>part-time hours</p> <p>compressed week or fortnight ie full-time employees work longer days over a four-day week or nine-day fortnight</p> <p>flexible shifts – full-time or part-time</p> <p>fixed shifts – full-time or part-time</p> <p>combination of fixed shifts and flexible shifts – full or part-time</p>	<ul style="list-style-type: none"> • leave without pay • term-time working ie working during school terms and taking leave during school holidays • other types of leave eg study leave, special leave 	<ul style="list-style-type: none"> • working from another location eg another MSD office or home regularly or from time-to-time • working from another location, - part-time • working from another location temporarily as part of a return to work plan • Note that we cannot approve requests to work overseas (other than business-related travel such as conferences) 	<ul style="list-style-type: none"> • phased return to work ie employees gradually increase their hours on returning from long-term leave • phased retirement ie employees gradually reduce their hours as they approach retirement • seasonal working ie to cover busy periods • job sharing ie splitting a role with another employee • taking career breaks

Responsibilities

Person/Party	Responsibilities
Employee	<p>Read MSD's flexible working policy and guidance before making a request for flexible work arrangements.</p> <p>Make all requests for formal flexible working arrangements in writing.</p> <p>Ensure a request for formal flexibility is made at least one month in advance of when they want it to take effect.</p>

Person/Party	Responsibilities
Employer (Manager)	<p>Provide enough information on the variation to working arrangements they are after to enable their manager (and MSD) to give their request proper consideration.</p> <p>Be able to discuss their request in an open and constructive manner with their manager.</p> <p>Be prepared to be flexible themselves in order to reach an agreement.</p> <p>Provide guidance and expectations for their team on how flexible working can work for MSD, teams and individuals.</p> <p>Consider formal requests fully in accordance with the set process set out in the flexible working guidelines which includes responding to employees' requests in writing.</p> <p>Deal with the request in a timely manner, no later than one month after receiving it. NB: For requests for flexible working arrangements for people affected by domestic violence, this is 10 working days (refer to MSD's Domestic and Family Violence Policy [https://doogole.ssi.govt.nz/resources/helping-staff/policies-standards/hr/hr-policies/domestic-violence-policy/domestic-and-family-violence-policy.html]).</p> <p>Understand the support employees need to make flexible working successful.</p> <p>Discuss formal flexible work arrangements with HR Business Advisory/AskHR before deciding a request.</p> <p>If a request is accepted, ensure it is made clear to the employee where the variation is for a fixed period of time and what the end date is, or at what point the variation will be reviewed.</p> <p>Refuse the request where grounds for refusal of request provided for in Section 69AAF(2) of the Employment Relations Act 2000.</p> <p>If request is refused, state that the request is refused because of a ground in section 69AAF (2) and explain the reason to the employee including the business and/or team context as applicable.</p> <p>Refuse the request if it is from an employee covered by a collective agreement and the employee's proposed working arrangements would be inconsistent with the collective agreement as outlined under section 69AAF(3).</p>
One up manager	Decide a review of decisions of flexible working arrangements
Level three Manager as defined by HR delegations (eg Group General Manager, Regional Commissioners, General Managers)	Set the organisational context for flexible working with managers within their group to ensure arrangements can work for MSD and teams.
HR Business Advisory	<p>Provide advice on flexible working, including guidance on approving or refusing flexible working requests.</p> <p>Action formal flexible working arrangements in myHR (if required).</p> <p>Complete appropriate employment documentation related to the flexible working arrangements agreed between employees and MSD.</p>

Definitions

Word/ phrase	Definition
Formal flexible working	Occurs when a recurring work arrangement impacts on pay or involves changes to employment terms and conditions such as working hours, patterns and location. It may take place for an agreed period or on an ongoing basis with regular review. Examples could include regular part-time hours, job sharing or working from another location on a regular basis.
Informal flexible working	Usually occurs when managers agree that employees have flexibility over when and where they carry out their work, subject to meeting position responsibilities and deliverables. This can mean that the exact arrangements (times or place of work) vary and are agreed between managers and employees as and when needed. It can also involve agreements to more regular arrangements, such as regular

	changes to start and finish times, as long as arrangements don't require changes to pay or employment agreements.
Employee	Person engaged on either a permanent, fixed term or casual employment agreement with MSD.
Reasonable Accommodation	Adjustments in the workplace to ensure a person can perform their job. Reasonable accommodation refers to creating an environment to ensure equality of opportunity by meeting an employee's needs in relation to a disability or particular practices of an employee's religious or ethical beliefs.

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Reasonable Accommodation in Employment Policy

This page outlines the Ministry of Social Development's reasonable accommodation in employment policy

On this Page:

Purpose

The purpose of this policy is to define 'reasonable accommodation in employment' as it applies to the Ministry of Social Development (MSD) and outline the Ministry's approach. This policy is to be read in conjunction with the Reasonable Accommodation in Employment Guidance.

This policy complements but does not replace MSD's Flexible Working Policy and Guidance which outlines our obligations under [Part 6AA \[http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html\]](http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM1398200.html) of the Employment Relations Act 2000 (ERA).

Policy statement

MSD recognises that each employee has their own individual circumstances and that making reasonable accommodations fosters an inclusive environment which creates equal opportunities for our people to reach their full potential, enabling high levels of trust and wellbeing and building strong communities.

Reasonable accommodation enables employees to get the workplace adjustments they need to perform their job, in a way that is appropriate to them, and can apply from when someone first applies to work for MSD, all the way through to when they finish their employment with the Ministry.

Most adjustments are relatively simple and involve little or no cost, eg demonstrating how to complete a task in addition to providing written instructions. Other adjustments require more thought and/or are provided to address a more specific need, eg adjusting a test in an interview to make it accessible for someone with a hearing impairment or providing documents that are accessible to employees with visual impairment.

MSD's policy and definition of reasonable accommodations reflect the expectations set out in the [Human Rights Act 1993 \[http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304467.html\]](http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304467.html), the [United Nations Convention on the Rights of People with Disabilities \(UNCRPD\) \[https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html\]](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html) and the Lead Toolkit:

The Human Rights Act 1993 directs employers to make reasonable accommodations in order to avoid unlawful discrimination and specifically discusses considerations regarding disabled people.

Article 27 of the UNCRPD further details the rights of people with disabilities to work on an equal basis with others in work environments that are open, inclusive and accessible.

The Lead Toolkit succinctly describes reasonable accommodations as the creation of an environment in which employees' specific needs are met.

At MSD, the Reasonable Accommodation in Employment Policy applies to all employees, including those who do not have a disability and may benefit from a reasonable accommodation. As an organisation, we recognise that it's good management practice to provide reasonable accommodations in the workplace to meet the individual needs of our employees. This helps our organisation attract good employees and assists with retaining experienced staff.

Scope

This policy applies to all employees and workers (hereafter "employee/s") at MSD and includes the provision of reasonable accommodations in recruitment.

Principles

Our Reasonable Accommodation in Employment Policy and guidance are supported by the following principles:

Whānau – we are inclusive and build a sense of belonging by valuing diversity and encouraging everyone at MSD to be who they are

Manaaki – we work together with respect, openness and compassion to make accommodations that promote success and wellbeing

Tika me te pono – we do the right thing by our people and act with integrity

Responsibilities

Person/Party	Responsibilities
Employee	<p>Discuss your needs with your manager and follow the reasonable accommodation guidance to make a request for accommodations. Explore available options together.</p> <p>Follow the Flexible Working Policy and Guidance to request a change to work hours or environment.</p> <p>Register pain and discomfort events [https://doogee.ssi.govt.nz/working-here/keeping-healthy-and-safe/health-and-safety-in-the-workpalce/workstation-set-up-and-the-pain-and-discomfort-programme.html] in the STAR event reporting system.</p>
Manager	<p>Engage in regular conversations with applicants and employees about what they need to perform their job and follow the reasonable accommodation guidance. Explore all options available.</p> <p>Approve reasonable accommodation requests on behalf of MSD and record any reasonable accommodations that have been agreed.</p> <p>Treat reasonable accommodation requests as a priority to ensure employees have what they need to do their job.</p> <p>Take active steps to ensure we meet our obligations under the Human Rights Act, UNCRPD and the ERA.</p>
One up manager	Decide on review of decisions for reasonable accommodations

Definitions

Word/ phrase	Definition
Reasonable accommodation	<p>Adjustments in the workplace to ensure a person can perform their job.</p> <p>Reasonable accommodation refers to creating an environment intended to ensure equality of opportunity to meet an employee's needs in relation to a disability or family commitments and particular practices of an employee's religious or ethical beliefs (as described in guidance [https://www.employment.govt.nz/workplace_policies/employment_for_disabled_people/reasonable_accommodation_measures/#_text=Reasonable%20accommodation%20is%20the%20term,in%20relation%20to%20a%20disability] on Employment New Zealand's website explaining 'what reasonable accommodation means').</p> <p>Reasonable accommodations can include – but aren't limited to – providing instructions in writing as well as verbally, demonstrating how to do a task, reallocating aspects of the job to another employee, changes to lighting and desk arrangements, facilities, equipment or software. In some instances, more than one accommodation may best suit a person's circumstances. However, MSD only provides work-related and additional specialised equipment for an employee's main place of work, which is defined as an MSD office unless otherwise stated in the conditions of employment.</p> <p>Reasonable accommodations should be fully explored before considering whether an employee can no longer work and the medical retirement process is initiated.</p> <p>When considering what is reasonable, factors to take into account include:</p> <ul style="list-style-type: none"> • how effective the adjustment will be in assisting the employee to perform their job • whether it's practical to make the adjustment • the financial or other costs of the adjustment • how much disruption, if any, will be caused to our services or our people.
Flexible working arrangements	<p>Arrangements can be:</p> <ul style="list-style-type: none"> • formal – a recurring work arrangement which impacts pay or involves changes to employment terms and conditions such as working hours, pattern or location. • informal – an agreement between manager and employee to have flexibility over when and where they carry out their work subject to meeting position responsibilities and deliverables.
Workstation assessments	<p>A formal workstation assessment is conducted once pain and discomfort has been registered in the STAR event reporting system. An occupational therapist will complete a report that recommends the height of desk, chair and monitor and may recommend equipment such as a personalised chair, mouse or document holder.</p> <p>A formal workstation assessment is not required for reasonable accommodations to be made. As well, a health practitioner may recommend specialised equipment or other accommodations to ensure a person's</p>

	<p>wellbeing in the workplace.</p> <p>Conversations about health and safety can complement discussions about reasonable accommodations.</p>
Support Funds	<p>Support Funds is external funding, specifically for disabled employees, that can be applied for by the employee (rather than the employer) to cover the "cost of disability" – that is additional work costs that are a direct consequence of a person's disability.</p> <p>Support Funds are particularly useful for more expensive specialised requirements that are unlikely to be used again when the person leaves MSD. Items typically covered by Support Funds are specialised equipment or software, and New Zealand Sign Language (NZSL) interpreters. Any equipment or software belongs to the employee so they can move with the employee if they change roles or employers.</p> <p>Support Funds [https://www.supportfunds.co.nz/] do not cover disabilities covered by ACC.</p>

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