

WORKING FROM HOME

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Authority and Application

Clause 22 of the *Victorian Public Service Enterprise Agreement 2020* (the Agreement), applies to Victorian Public Service Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 22 of the Agreement provides that working from home arrangements may be agreed between the Employer and an Employee on a case-by-case basis. Working from home and other flexibilities available to employees are summarised in clause 8 of the Agreement. The Victorian Government has implemented a Flexible Work Policy (FW Policy), which seeks to embed hybrid and flexible ways of working into business-as-usual arrangements. A number of [guidance notes](#) underpin this policy, including Guidance Note 1, which outlines the default arrangement for full-time office-based employees as being three days a week in the office (some of which may be in a suburban hub), with the remainder to be worked from another location such as from home, at a suburban hub, in the office or other location as agreed between the Employer and Employee. The FW Policy and underpinning

guidance notes may be supported by other operational documents which provide additional guidance for Employees.

In considering requests for working from home arrangements, the FW Policy and underpinning guidance notes makes clear that discussions are to be based on the principle that we start from a position of flexibility. However, physical attendance at work continues to be a vital component of work in the Victorian Public Service, and all employees must be able to attend their usual place or places of work and it is expected hybrid work arrangements will include physical attendance in some capacity for all employees.

The Employer will review each Employee request for flexible work arrangements, including requests for working from home arrangements considering both the needs of the Employee and the operational requirements of the work unit. A request for working from home arrangements will not be unreasonably refused, considering all the relevant circumstances, including but not limited to the Employer's operational requirements.

Relevant provisions of the VPS Agreement

Clause 22. Working From Home

Clause 8. Flexible Work

Supplementary Guidance Information

1. Principles of working from home

- 1.1. Any Employee may request a working from home arrangement as part of the discussions about their working arrangements under the FW Policy.
- 1.2. There are two types of working from home arrangements, which may be used separately or in conjunction with each other:
 - 1.2.1. Regular working from home – working from a home-based office on a regular and pre-arranged schedule (e.g. once a week or once a fortnight).
 - 1.2.2. Occasional working from home – working from home on an ad-hoc basis, agreed on a case-by-case basis with the Employer.
- 1.3. Working from home arrangements may not be used as a substitute for childcare, dependent care or to perform household responsibilities.
- 1.4. Working from home arrangements are not transferrable. Employees who are reassigned, appointed to a new position, or accept higher duty assignments must re-negotiate their working arrangements under the FW Policy, including any working from home arrangements.

2. Assessing requests for working from home

- 2.1. In assessing a request for working arrangements under the FW Policy, which includes working from home, the Employer should consider the request based on the principle that it will start from a position of flexibility. The following should be considered:
 - 2.1.1. Employee health and safety, including existing reasonable workplace adjustments;
 - 2.1.2. Employee legal rights to request flexible work;
 - 2.1.3. Public health advice, including any constraints on office capacity;

- 2.1.4. Operational requirements for the role;
 - 2.1.5. Working arrangements for the team;
 - 2.1.6. Employee preference and individual circumstances;
 - 2.1.7. Where coming together in person would provide greater benefit for the team than a virtual interaction.
- 2.2. In considering the Employer's operational requirements under 2.1.4, when reviewing flexible work requests, the starting point is from a position of flexibility, in establishing the reasonableness of the request, the Employer should also have regard to:
- 2.2.1. the cost of accommodating the request;
 - 2.2.2. the capacity to reorganise other Employees' work arrangements to accommodate the request and the practicality of doing so;
 - 2.2.3. the impact on other Employees;
 - 2.2.4. any legal or other constraints that could affect the feasibility of the arrangement;
 - 2.2.5. the impact on efficiency or productivity;
 - 2.2.6. the impact on customer service; and/or
 - 2.2.7. any other relevant factor/s.
- 2.3. Consideration of working from home arrangements, as part of a flexible work arrangement, should be aligned to the principles of the flexible work policy, and should not:
- 2.3.1. lead to reduced service delivery to the Victorian community;
 - 2.3.2. negatively impact the achievement of your team and organisation's objectives;
 - 2.3.3. materially change the work that you are doing.
- 2.4. None of the matters listed in 2.1 and 2.2 are solely determinative. The Employer will endeavour to accommodate requests within the framework set out above, noting, that under the FW Policy, 'Flexible work is the government's default position'. A request for a working from home arrangement will not be unreasonably refused, considering all the relevant circumstances, including but not limited to the Employer's operational requirements. Physical attendance at work continues to be a vital component of work in the Victorian Public Service, and all employees must be able to attend their usual place or places of work and it is expected hybrid work arrangements will include physical attendance in some capacity for all employees.
- 2.5. Where a request for home-based work is part of a request made under clause 10 of the Agreement, Employers must ensure they follow the process and timeframes outlined in that provision. See also section 4 below and the common policy Flexible Work Arrangements – Specific Circumstances.
- 3. Review, duration, and termination of working from home arrangements**
- 3.1. Working from home arrangements agreed between the Employer and Employee should be regularly reviewed so that the arrangements remain effective and viable for all parties, including other team members. A review may also explore whether there are other more appropriate flexible work arrangements available to the Employee and any other relevant matter.

3.2. The Employer may terminate a working from home arrangement where it is no longer considered appropriate having regard to the matters in 2.1 and 2.2 above and 5.3 below. The Employer must consult with the affected Employee prior to terminating a working from home arrangement, including considering ways in which the arrangement may be varied to better meet both operational requirements of the Employer, and the needs of the Employee.

4. Interaction with right to request flexible working arrangements (clause 10)

4.1. A request for flexible working arrangements (as contemplated by clause 10 of the Agreement) which includes a request for working from home (as contemplated by clause 22 of the Agreement) will require the Employer and Employee to take into consideration the Agreement provisions, the FW Policy, any relevant Supplementary Guidance Information provided by the Victorian Secretaries Board and any supporting local procedures or guidelines which operationalise these arrangements.

4.2. In such circumstances the provisions of clause 10 of the Agreement shall take precedence over any inconsistency with clause 22 of the Agreement.

5. Provision of equipment

5.1. Clause 76 of the Agreement states that the Employer shall provide Employees with all such instruments, equipment, tools, stationery, and furniture as may be reasonably necessary for carrying out their work, noting this does not require Employers to provide duplicate equipment.

6. Occupational Health and Safety

6.1. The *Victorian Occupational Health and Safety Act (2004)* states that the 'employer must, so far as is reasonably practicable, provide and maintain for employees of the employer a working environment that is safe and without risks to health. This obligation extends to the employee's home, where the Employer permits the Employee to work from home as part of their working arrangements under the FW Policy.

6.2. There may be occasions where:

6.2.1. the minimum workstation requirements set out by WorkSafe Victoria are not readily applicable to an Employee's home work location (e.g. reasons of space), and/or

6.2.2. the Employee's home work location is not suitable for work purposes due to seasonal health and safety considerations (e.g. summer heat, bushfire risk).

6.3. In these cases, the Employer is responsible for considering and mitigating health and safety risks in consultation with the Employee, so far as is reasonably practicable. This may include refusal of or further review and adjustment to a request to work from home.

Making decisions under this policy

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities, and duties of an employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 22 may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

VPS Enterprise Agreement Common Policies

- Requests for Flexible Working Arrangements – Specific Circumstances
- Annual Leave
- Personal Leave
- Review of Action

All policies in the VPS Enterprise Agreement common policies collection can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>

Flexible Work Policy and Resources

The flexible work policy and other resources are available at <https://vpvc.vic.gov.au/html-resources/flexible-work-policy/>

Authorised by Industrial Relations Victoria:

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