

Flexible working arrangements

On Friday 16 December 2016, the Fair Work Commission approved the new Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2016-2020, and it became legally enforceable seven days later. The new EBA contains a number of significant new conditions and obligations and the ANMF has developed materials to assist members and managers to understand and comply with its requirements.

The new EBA sets out and expands on the entitlement of an employee to request flexible working arrangements contained in the Fair Work Act. The Act entitles specified employees to request flexible working arrangements in some circumstances. Your employer may only refuse a request on reasonable business grounds.

To be eligible you must already have at least 12 months continuous service.

The specified circumstances are if you:

- are the parent, or have responsibility for the care, of a child who is of school age or younger;
- are a carer within the meaning of the Carer Recognition Act 2010 caring for someone who has a disability, a medical condition (including a terminal or chronic illness), a mental illness or is frail or aged;
- have a disability;
- are 55 or older;
- are experiencing violence from a member of the your family; or
- provide care or support to a member of your immediate family, who requires care or support due to violence or abuse from the their family.

What can I request?

- To work part time on return from parental leave to assist you to care for your child.
- Different hours of work, patterns of work or location of work.

How do I apply?

You must apply in writing, setting out the change that you want and the reasons

for those changes. The changes must relate to the circumstances above.

What happens then?

- Either you or your employer can request to meet to discuss your request. This discussion can explore your request, any alternatives to the request, or reasons for a refusal on reasonable business grounds. Your employer doesn't have to choose between accepting or rejecting your request in full. Once a request has been made, you and your employer can discuss and negotiate an arrangement that balances your needs and theirs.
- Your employer must respond in writing within 21 days of you making the request, either granting or refusing the request. If rejected, the response must include details of the reasons for the refusal.

What are reasonable business grounds?

- The requested arrangements are too costly.
- Other employees' working arrangements can't be changed to accommodate the request.
- It's impractical to change other employees' working arrangements or hire new employees to accommodate the request.
- The request would result in a significant loss of productivity or have a significant negative impact on patient care.
- Occupational health and safety issues.

What if I think my employer hasn't properly considered my request?

The ANMF can assist you to appeal your employer's decision to the Fair Work Commission. Also, the Equal Opportunity Act 2010 (Vic) provides parents/carers with a statutory right to pursue flexible working arrangements. It states that *'[a]n employer must not, in relation to the work arrangements of an employee, unreasonably refuse to accommodate the responsibilities that the employee has as a parent or carer'*. If an employer unreasonably rejects a request we can issue proceedings seeking orders requiring your employer to refrain from committing any further contravention and payment of compensation.

Tips

- Your letter must state what you want and why it will help manage your circumstances and broadly what those circumstances are so craft your letter carefully.
- Think like your employer may think. Why may they oppose it? What can I put in my letter to pre-empt those concerns?
- Speak to your immediate manager about it and address any concerns they raise in your request letter.
- Be prepared to consider alternatives.
- Consider offering a trial period or a review in six or 12 months time.