Mainstreaming flexibility across the VPS -implementation toolkit

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1. Foreword

The task of mainstreaming flexibility is ultimately dependent on individual managers and employees, and the approach these individuals take to the task of designing, negotiating, maintaining and assessing any particular arrangement.

This toolkit has been designed with these individuals in mind, and adopts a ‘hands on’ view of the thinking and action require to make flexible working a reality. It includes a series of templates, prompts, Q&A, guidance and suggestions that could be useful at any point in the lifecycle of a flexible arrangement.

Individual agencies will have different needs, views and experience in mainstreaming flexible working and this toolkit should not be seen as a ‘one size fits all’ product, or a comprehensive solution to the challenges different work areas may face.

This toolkit will provide enough material to help HR practitioners craft their own agency specific templates and guidance, and to help frame a consistent Victorian Public Service (VPS) wide approach to implementation.



1. Thinking through your needs – for employees (+ potential template)

*This section will help employees think through an initial proposal for a flexible work arrangement. It may also be a useful conversation template for a discussion with managers.*

1. What is the current state of your work-life balance, and why are you considering a flexible work arrangement?

*(e.g. family responsibilities, study plans, health matters, volunteering)*

2. What kind of flexible work arrangement are you considering?

*(e.g. flex start/finish, compressed work week, part time, job share, remote working)*

3. What are the requirements of your current role?

*(things to consider: hours and workflow, face time, technology, client or stakeholder needs, responsibilities for staff)?*

4. How do you currently work?

*(things to consider: level of supervision required, office or field-based, time management skills, need for face-to-face engagement)*

5. Are the requirements of your job and the way you work compatible with flexible working? If not, are changes possible to enable a flexible work arrangement?

*(e.g. yes but subject to manager’s commitment to teleworking and a change in my records management practices)*

6. What do you expect will be the impact of taking a flexible work arrangement? Consider the effect on you and the workplace. How might any negative impacts be addressed?

*(things to consider: increased burden on communication, increased workload on colleagues, reduced participation in team activities)*



1. Drafting the proposal – for employees (+ potential template)

*This section contains the minimum of information required for delegates to propose a flexible work arrangement. Agencies could use it as the basis for their own authorising template.*

1. What is your proposed flexible work arrangement?

*(include information on type, duration, time and commencement/transition)*

2. What is your reason for your proposed flexible work arrangement?

*(one sentence on why it’s required, noting all reasons are potentially valid)*

3. What is the likely impact you foresee on your work?

*(e.g. reduction in my total hours but increase in productivity during time on-the-job)*

4. What is the likely impact on your team’s work?

*(e.g. potential to reallocate team resources toward more pressing priorities)*

5. Will there be any associated costs, to yourself or the agency?

*(things to consider: insurance, ICT, WH&S provisions, salary savings, travel)*

6. Are there any risks you can see that will require attention? How will they be managed?

*(e.g. potential communication difficulties when I am offsite; managed with a phone call at agreed times)*

|  |  |  |
| --- | --- | --- |
| 🞐 Approved | 🞐 Not approved | 🞐 Resubmit/discuss further |
|  | *Name* | *Signature*  | *Date* |
| *Employee*  |  |  |  |
| *Manager* |  |  |  |
| *Delegate* |  |  |  |



1. Assessing the proposal – for managers (+potential template)

*How should a manager assess a proposed flexible work arrangement? This section provides some pointers and could be the basis for an agency template.*

1. Will the proposal improve the employee’s work-life-balance, health and/or wellbeing?

*(e.g. it will permit more time for the employee to take care of family responsibilities)*

2. Is the proposal consistent with your agency’s policy for working flexibly?

*(things to consider: your agency may prioritize flexible work to achieve diversity goals)*

3. Are there legal issues to consider?

*(e.g. the National Employment Standards and Fair Work Act provide a legal right to request flexible work arrangements for several categories of employees)*

4. How do we make it work?

*(e.g. the employee’s task load can be reallocated to adapt to the proposed arrangement; impact on the team and individual colleagues is likely to be moderate)*

5. What are the potential costs or cost savings?

*(things to consider: insurance, ICT, OH&S provisions, salary savings, information security)*

6. How can we manage risks associated with the request?

*(things to consider: any risks should be balanced against the risks implied by not acting)*

7. What might happen if the proposal is not approved?

*(things to consider: given [the Government’s] strong support for ‘all roles flex’ and the potential for employee disengagement, do you have reasonable business grounds to refuse)*



1. Monitoring – for employees & managers (+ potential template)

*Periodic monitoring is a key step to ensuring that flexible work arrangements are effective. This section provides prompt points and could be an authorising template.*

1. At a predetermined point, both manager and employee should collaboratively review their experience with the flexible arrangement to satisfy themselves that:

* Both manager and employee continue to have faith or trust in the arrangement, and generally believe it contributes to positive outcomes
* The arrangement has led to an improvement in the work-life balance, health and well-being of the employee, or improvement in managing these
* The arrangement has proven consistent with business requirements
* The arrangement remains consistent with agency policies
* Responsibilities and duties are consistent with the employee’s assigned classification
* The workload is appropriate and manageable
* The arrangement allows for an appropriate level of interaction with the Team and the employee’s colleagues, including through team meetings and other scheduled events
* Any impacts on the Team are manageable
* The arrangement is consistent with the employee’s L&D needs
* There is no associated increase in employee absence, and
* Agreed expectations around outputs and deliverables are met.

2. Is the existing arrangement sustainable?

*(things to consider: answering no to this implies that issues should be addressed. If they can’t be, the arrangement may not be workable in its current form)*

3. What needs to be improved?

(e.g. changing days for remote working; reconsidering timelines for part-time work, etc)

|  |  |  |  |
| --- | --- | --- | --- |
|  | *Name* | *Signature*  | *Date* |
| *Employee*  |  |  |  |
| *Manager* |  |  |  |



1. Guiding and mediating – for HR practitioners

*This section provides basic guidance to HR practitioners on their role in guiding and mediating flexible working practices.*

HR practitioners play a key role in ensuring appropriate uptake of flexible work practices across their agency. Key features of their role includes:

1. Creating, maintaining and ensuring compliance with agency processes and policies for flexible work. Agency systems, processes and policies should:

* Provide enough information for agency managers and employees to make informed choices about flexible working
* Be simple to understand and use. Complex and detailed systems lead to poor uptake or poor application
* Be fit for purpose. No two agencies are likely to have identical needs. Be careful of ‘off-the-shelf’ solutions
* Set the tone for how the agency wants flexible working to develop over time
* Take account of best practice and comparable cases. What are other agencies and private sector firms doing?

2. Explaining the reasons for flexible working and how it should be implemented. This is essentially a communications or educational function. Supporting activities could include:

* General communications around the agency’s processes and policies for flexible working
* Building the case for flexible working arrangements, including more engaged and happier staff, higher aggregate productivity, improved reputation, employment branding and legal compliance
* Disseminating information on the leadership’s commitment to flexible working, and
* Targeted instruction for managers to assist with negotiating a flexible arrangement.

3. Helping when discussion around flexible work arrangements between employees and managers becomes stuck. At a minimum, HR practitioners should:

* Seek to ensure that all parties understand their agency’s systems, processes and policies, and their obligations under these together with any external laws and regulations
* Ensure that all parties have an opportunity to discuss their concerns
* Seek to ensure that discussion and decisions are appropriately documented
* As subject matter experts, provide advice and opinion as required
* Ensure decision making is procedurally correct, and conducted in accord with the agency’s systems, processes and policies for flexible working, and
* Assess the appropriateness of contended decision making on individual cases of flexible working (i.e. ensuring they constitute reasonable management action).

4. Ensuring compliance with related workplace legislation and regulations. In the VPS, this includes:

* The National Employment Standards and section 65 of the *Fair Work Act* *2009(Cth*) (Fair Work Act) provides employees with a legal right to request flexible working arrangements if they have worked with the same employer for at least 12 month, and
	+ are a parent, or have responsibility for the care, of a child who is school aged or younger
	+ are a carer
	+ have a disability
	+ are 55 or older
	+ are experiencing family or domestic violence, or
	+ provide care or support to a member of their household or immediate family who requires care and support because of family or domestic violence.
* Requests under section 65 of the Fair Work Act can only be rejected on reasonable business grounds.
* The *Equal Opportunity Act 2010(Vic)* (EO Act) makes it unlawful to discriminate against a person because they have family responsibilities; for example, in determining who should be offered a job or given a promotion. The EO Act also requires employers to consider reasonable requests made by workers to adjust their working arrangements so they can meet their caring responsibilities.
* Sections 21 and 22 of the *Occupational Health and Safety Act* *2004(Vic)* set out the employer’s duties to employees including a safe working environment and monitoring the health of employees.
* The *Sex Discrimination Act* *1984(Cth)* provides employees with further protection from discrimination on the grounds of pregnancy, potential pregnancy, breastfeeding and family responsibilities.
* The *Disability Discrimination Act* *1992(Cth)* protects individuals from direct and indirect discrimination in employment matters.
* Section 8 of the *Public Administration Act* *2004(Vic)* (PA Act) sets out public sector employment principles including fair and reasonable treatment of employees, equal employment opportunity and recognition of human rights. In addition to the legislation, there are employment principles that underpin flexible work arrangements.
* Section 13A of the Equal Opportunity Act 1995 (Vic) prohibits an unreasonable refusal to accommodate an employee’s responsibilities as a parent or carer.
* Employers and employees need to be aware of relevant enterprise agreements applying to their workplace. For example, clause 8 of the Victorian Public Service Enterprise Agreement 2016 (VPS Agreement) notes that: “[a}n Employee and the Employer may enter into an individual flexibility arrangement (IFA) pursuant to this clause in order to meet the genuine needs of both the Employee and the Employer. An individual flexibility arrangement must be genuinely agreed to by the Employee and Employer.” Specific terms, including the requirement that an IFA must result in an employee being better off overall, are outlined in clauses 8.4 and 8.7. Most enterprise agreements allow for flexible options outside IFAs, and these may be affected by IFAs where they are agreed. For example, clause 34 of the VPS Agreement states that ”[t]he ordinary hours of work shall, by agreement, be worked flexibly to best meet both the Employer’s work requirements and the employee’s personal and/or family circumstances.”



1. Some practice tips for managers

*Managers have front line responsibility for flexible work arrangements and are key to ensuring successful implementation. This section provides guidance around the multiple issues managers may need to consider, and then provides communication prompts.*

* Start from a position of ‘yes’ and work towards an outcome that is in everyone’s interests
* Commit to creating a work environment that supports flexibility
* Attend any training or events to help manage a more flexible workforce
* Consider all flexible work requests with an open mind by exploring the possibilities of new ways of working
* Engage with staff about flexible work options and discuss with the team the best options for flexible work
* Incorporate flexible work options into team planning to ensure workloads are managed and the team remains supportive and cohesive
* Regularly review the flexible work arrangements you have in place to ensure continuing benefit to all parties involved
* Lead by example and model flexibility. Employees often follow the work style of their immediate manager/supervisor. Have you thought about your own work/life balance? What steps are you taking to model good behaviour to your staff?
* Be aware of, or seek advice on relevant legislation, standards and agreements that may influence decision-making
* Give it a go. Consider a trial period if you are unsure how things will turn out
* Listen to your staff! Use listening skills and see the conversation from their point of view
* Start from a holistic view of your work program, team member work arrangements and future commitments when determining flexible work arrangements
* Embrace new ways of staff working together and backing each other up
* Irrespective of workplace arrangements, all individual contributions should be valued and acknowledged
* Think about what arrangements might need to be put in place to support flexible working practices – eg. Job sharing, reallocation of tasks and responsibilities to others, better planning and scheduling of meetings or events, etc
* Check in with your staff often about how the arrangements are working
* Understand that if you give flexibility you will get flexibility and commitment in return
* Utilise technology, there are so many apps and tools available to working flexibly
* Avoid assuming that just because someone wants to work flexibly, they are not focused and dedicated to their role
* Always consider flexible workers for professional development and extension opportunities

***Communication prompts for managers***

* I want to create an environment in my team that supports flexibility, so let’s work towards an arrangement that helps you to perform at your best.
* It’s everyone’s right to ask for flexible arrangements and I’m keen to make your proposal work if I can.
* Balancing work and life can be a challenge. I’m glad you’ve come forward and asked for this.
* Talk me through your thinking. I’d like to understand more so we can develop an arrangement that will work for you and the team.
* Have you talked to [HR/] about the proposal yet? Did they walk you through the paperwork and the formal requirements?
* So if [communication] becomes an issue, what do you think we should do about it? Can you think about any other challenges that might arise?
* It’s important to balance this request against team priorities. I don’t think [going part time] is realistic for us just at the moment. But instead of [going part time], have you thought about [working from home]?
* We probably can’t manage that arrangement just now [due to budget constraints], but if you can wait [till the end of the financial year], let’s commit to revisiting it then.
* I’m afraid that arrangement’s really not going to work [due to resourcing]. But we’re committed to flexibility, so can we discuss some other options?



1. Frequently Asked Questions

*As with any new initiative, all roles flex / mainstreaming flexible working has generated a stream of questions. This section addresses some of the more common ones.*

1. *Can my manager/supervisor say no to my request for flexible work?*

The short answer is ‘yes’. The longer answer is that conversations about flexibility need to be two way. If you are the primary caregiver of a child under school age or a child with a disability under 18 years, or you meet other criteria under the Fair Work Act , you have a legal right to a response within 21 days of your request for a change in your working arrangements.

1. *I have applied for a flexible work arrangement but it has been rejected. Why?*

Managers/decision makers will genuinely consider all requests for flexible work. While all requests will be fully considered, all forms of flexible work may not be appropriate to all employees or positions, at particular times or under particular circumstances.

1. *What will happen if my request is rejected?*

Any decision to reject a proposal will be clearly articulated to the individual. Agency review processes will differ, but decisions may be appealed under the PA Act (Review of Actions) and/or dispute resolution processes under the VPS Agreement at the Fair Work Commission and/or other in other tribunals (for example, in relation to equal opportunity and disability).

1. *I want to adopt the same flexible work arrangement as my colleague, but the organisation has rejected it. Why?*

Each decision will be made on a case by case basis with the ultimate decision resting with the manager. If any request is unable to be met, a modified arrangement may be considered which meets the needs of the business and the individual. All formal arrangements must be appropriately documented and reviewed at appropriate intervals.

It may be that your manager cannot approve the same request as your colleague at this point in time because of operational requirements, but will consider your request at the point of review of your colleague’s.

1. *What are the impacts on my entitlements (leave, superannuation, salary etc) if I enter into flexible work arrangements?*

The impact on your entitlements may vary in view of what arrangement you enter into and is not possible to provide a comprehensive answer for all situations. It is recommended that you contact your HR Department with the relevant information and a response will be provided based on your individual circumstances.

1. *I’m worried about dealing with urgent enquiries when my colleague is not in the office, what can we do to manage this?*

It’s important there is an agreement set as to who will deal with any urgent issues when any staff member is away from their job, and how the issues will be managed

1. *What do I have to do differently when managing people on flexible work arrangements?*

Establishing clear performance expectations and setting up excellent communication channels will be even more important when managing those working flexibly. Health and safety considerations are also critical for when you have an individual working from home or another location. Ensure your employee completes any required OH&S assessment before commencing the arrangement.



1. Case studies

*Ultimately, actual experience with implementing all roles flex / flexible working will provide the best instruction on how to get it right. This section includes some case studies that may benefit those facing similar choices.*

***The Virtual Operation Support Team, Department of Health & Human Services***

South Division, Virtual Operation Support Team (VOST) has been operational for two years. It is a small team of child protection practitioners who interact primarily through electronic means, are engaged in independent administrative tasks and are trusted and capable of lending support to others who may be overwhelmed with volume of work.

The team is composed of current Child Protection Practitioner 4 and Child Protection Practitioner 5 staff working in traditional child protection teams on a part time basis. These staff are activated and deployed for additional hours as VOST to:

* Support child protection teams to recover and stabilise after periods of extraordinary operational pressure
* Swiftly bring case workloads under control
* Allocations of bundles of work that assist teams with throughput, such as closure work
* Undertake other work deemed suitable by the child protection operations group.

The Area Manager, Divisional Services is responsible for maintaining the list of active VOST staff and for allocating bundles of work that can be completed from home, at times convenient to staff and does not require client or professional direct contact.

***Individual benefits***

* VOST staff may opt in to work up to a total of 38 hours per week inclusive of their part time practitioner hours
* Enables part-time employees to choose to undertake additional work to support increased demand when it is suitable to them
* Employees returning from maternity leave or other leave can flexibility manage their return to work
* Employees elect to accept VOST bundle, and work remotely, during hours suitable to them.

***Organisational benefits***

* Assist employees returning from maternity and other leave to return to increase their hours quicker
* Provides the child protection workforce with a peer review process. VOST team have identified case closures that they do not agree with, resulting in escalation for further review to ensure the safety of Victorian children.
* Ensures senior child protection practitioners remain in the workforce whilst they manage their personal commitments
* Reduces the workload on other child protection employees at critical times

***Flexible working at the executive level, Department of Education & Training***

We are learning more about the possibilities of flexible work options for executives as two staff currently job share a Director’s role. Each person works three days a week as Director.

One, who works full-time, spends the other two days as an Executive Coordinator. The other works part time and is able to spend two days a week with her children.

The role has been split in such a way to allow one day when they are together. Each person leads different activities and projects but is in a position to cover the work of the other, if required, as well as to provide the capacity for the role to be responsive to any new work.