Catholic Schools Office
Diocese of Lismore

FLEXIBLE WORKING ARRANGEMENTS

Standard Operating Procedures

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Supporting Documentation: Anti-Discrimination Act (NSW)
Fair Work Act 2009 (Cth)
National Employment Standards
# FLEXIBLE WORKING ARRANGEMENTS GUIDELINES

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SECTION 1 - Flexible Working Arrangements Guidelines

Overview:

From 1 January 2010, 10 National Employment Standards were introduced and apply to all Catholic (and most other) employers. One of the standards provides eligible employees with the right to request flexible working arrangements. From 1 July 2013, a number of ‘family friendly’ amendments to the Fair Work Act came into effect, along with a series of changes to the operation of the Fair Work Commission.

The Anti-Discrimination Act (NSW) has provided that employers may not discriminate against employees on the basis of carer’s responsibilities, unless the employee requires arrangements that would cause unjustifiable hardship to the employer.

The flow chart in this document provides a brief overview of the key steps and timeframe for managing requests for flexible working arrangements under the Fair Work Act 2009 (Cth).

Eligibility:

- A full time or part-time employee who has completed at least 12 months continuous service with the employer; or
- A casual employee who immediately before making the request:

  Is a long term casual, that is casually employed on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and
  Has a reasonable expectation of continuing employment on a regular and systematic basis

The prescribed circumstances that must apply:

For an eligible employee to make a request one of the following circumstances must apply to them:

- The employee is a parent who has responsibility for the care of a child who is school age or younger
- The employee is a carer within the meaning of the Carer Recognition Act 2010 (Cth)
- The employee has a disability
- The employee is 55 years and older
- The employee is experiencing violence from a member of the employee’s family
- The employee provides care or support to a member of the employee’s immediate family, or a member of the employee’s household, who requires care or support because the member is experiencing violence from the member’s family.

Reasonable business grounds:

The Fair Work Act now sets out a non-exhaustive list of factors that could be taken into account when determining whether there are reasonable business grounds for refusing a request for a flexible work arrangement. Before refusing a request based on reasonable business grounds Principals should explore and consider whether the request can be partly accommodated or if other options might be possible that meet the needs of both parties.
Reasonable business grounds include:

- New working arrangements are too costly for the employer
- There is no capacity to change the working arrangements of other employees to accommodate the requested new working arrangements
- It is impractical to change the working arrangements of other employees, or recruit new employees to accommodate the request
- The new working arrangements would be likely to result in a significant loss to efficiency or productivity, or significant negative impact on customer service.

For requests for flexible working arrangements for the 2014 school year the request must be made to the Principal in writing using the Flexible Working Arrangements, Standard Operating Procedures document.

For requests for flexible working arrangements for the 2015 school year and beyond the request must be made to the Principal in writing using the Flexible Working Arrangements, Standard Operating Procedures document by 1 August of the year preceding the request.

Please note that in the Diocese of Lismore, all requests for flexible working arrangements will be assessed on an annual basis. Any request that is granted approval is limited to a maximum of 12 months duration. Staff will be required to return to their substantive position within the parish at the conclusion of the 12 month flexible arrangement.

Those employees wishing to continue with Flexible Working Arrangements in subsequent years must reapply via the Flexible Working Arrangements, Standard Operating Procedures document.

Return to Substantive Position:

An employee granted flexible working arrangements is required to return to their substantive position within the parish at the date agreed with the employer. The substantive position is defined as that position of employment duties and responsibilities (with minor changes accepted) that existed at the commencement of flexible working. Every effort will be made to return the employee to their substantive position within the parish however this may not be guaranteed based on operational reasons that prevail at the time of the employees return.
Receive request for flexible working arrangements

Assess Eligibility

F/T or P/T Employee
Completed 12 months service?

Casual Employee
Completed 12 months continuous service?

Yes

Long term casual and employed on a regular and systematic basis?

No

Not eligible. Request may be refused

Yes

Is the request in writing and does it set out the details of the change sought and the reasons for the request?

No

Not eligible. Request may be refused

*However, if the request was not in writing it would be more reasonable to ask for the request to be put in writing

Yes

Review flexible working arrangement requested and carefully consider whether it can be accommodated. If not, the request may only be refused on reasonable business grounds. Assess what the reasonable business grounds are for refusing the request.

Document and keep on file

Respond

Day 21

Provide written response to the employee within 21 days of initial written request

State whether the request has been approved or refused.

Approved

Refused

If approved the letter of appointment should be for 12 months only with the applicant returning to their substantive position within the Parish.

If refused the letter should state the reasonable business grounds for the refusal.
To be placed on School Letterhead

Private and Confidential

insert date

Name and Address

Subject: Acknowledgement of Receipt of Request for Flexible Working Arrangement

Dear Employee Name, 

I confirm that I received your request for flexible working arrangements on insert date.

If required, I will arrange a meeting to discuss your request and you may wish to consider whether you would like a colleague to accompany you if that is the case.

You will receive a written reply to the request within 21 days of the above date.

Please contact me on insert phone number if you have any queries.

Kind regards

Name
Position
To be placed on School Letterhead

Private and Confidential

[insert date]

[insert name and address]

Subject: Request for Flexible Working Arrangements granted

Dear [employee’s name]

Thank you for your request dated [insert date].

I am pleased to advise you that your request for flexible working arrangements in accordance with the terms of the “Request for Flexible Working Arrangements Form” completed by you (the ‘Request’) is granted. A copy of your completed form is Attachment A to this letter.

Optional if request only granted or another arrangement was agreed: I am pleased to advise you that, while it was unable to grant your original request for flexible working arrangements as outlined in the Request for Flexible Working Arrangements form, we are able to accommodate the agreed change to your working arrangements as follows:

Your new working arrangements will be [insert hours] per week to be worked as follows [insert the days to be worked, starting and finishing times, location (if relevant) etc].

Optional inclusion if salary is reduced as a consequence of the change: In your request you asked to reduce the number of [insert hours/days] you work each week. This will necessarily reduce your remuneration. Your new remuneration will therefore be [insert amount].

The new arrangements will commence on [insert date] and cease on [insert date]

All your other terms and conditions of employment will remain exactly the same, save for your hours of work and remuneration as set out above.

We propose to monitor this arrangement and work with you to deal with any issues that may arise in the early days of its implementation. As per the Flexible Working Arrangements Standard Operating Procedures document you are required to return to your substantive position within the parish at the date agreed in this letter. Any request by you to extend the arrangement or end it earlier than the date specified in this letter will be considered in line with organisational needs and cannot be guaranteed.

Kind regards


[Name]
[Position]
To be placed on School Letterhead

Private and Confidential

[insert date]

[insert name and address]

Subject: Request for Flexible Working Arrangement Refusal

Dear [insert employee’s name]

Thank you for your request dated [insert date]

I have carefully considered your request to change your working arrangements and the reasons for this change.

Unfortunately, [insert school name] is unable to accommodate your request for the following reasons:

- [insert reasons for refusal – these must be based on reasonable business grounds]
  (to be discussed with the Assistant Director School Resources Services or the Human Resources Officer at the CSO prior to finalisation with the employee).

Accordingly, your working hours and terms and conditions of employment will remain unchanged.

Please let me know if you have any queries.

Kind regards

[Name]
[Position]
Between <Employer Name> (the Employer - Parish School)

And <Employee Name> (the Employee)

Dear <first name of employee>,

1. On behalf of Fr <Parish Priest> and our Parish community, I am pleased to approve your request to take leave from your FULL TIME PERMANENT position from <start date> to <end date>.

2. During this period you will be employed <hrs per week / 0._FTE> in a PART TIME TEMPORARY Flexible Working capacity.

3. You will be covered by the Enterprise Agreement which sets out your minimum terms and conditions of employment.

4. Your request for flexible working arrangements and to vary your hours as detailed in clause 1 & 2 above is as agreed.

5. Your remuneration will be pro-rated accordingly and it is agreed that the flexible working arrangements set out in this document will initially be for a period of not more than 12 months commencing on <INSERT DATE> and cease on <INSERT DATE>.

6. It is further agreed that either party may review the arrangement and deal with any issues that may arise in the early days of implementation.

7. It is acknowledged and understood by both parties that you are better off under this Flexible Working Arrangement because you requested to vary your hours of work.

8. You warrant that you have not been induced or coerced to vary your hours of work and that you requested to vary your hours of work.

9. The provisions of this arrangement will commence to operate from the date that this document is signed, or the date in clause 5 above whichever is the latter.

10. You will retain your substantive position within the Parish, this includes the possibility of a split-appointment to two or more schools.

11. Should you wish to alter the agreed return date as set out in clause 5 above, you agree to do so in writing to the principal. A shorter notice to return may be considered by your Principal. Should you wish to extend your Flexible Working Arrangements you will be required to reapply via the Flexible Working Arrangements, Standard Operating Procedures document by 1 August of the year preceding the request. Any extension of the arrangement cannot be guaranteed.

12. Three copies of this document are enclosed. Please sign and return two of these to indicate acceptance of the Flexible Working Arrangement.

DATE: <Insert date>

SIGNED by the Employee ________________________________

Witness ________________________________

SIGNED by the Employer ________________________________

CC: Payroll
### INSTRUCTIONS ON HOW TO COMPLETE THE FORM

**Who can use this form?**

Eligible employees can use this form to make an application for flexible working arrangements (see notes to assess eligibility).

**Submit your request well in advance of the proposed commencement date**

You should note that it may take up to 21 days to consider a request and then more time before it can be implemented, particularly where difficulties arise. You should therefore ensure that you submit your application well in advance of the date you wish the request to take effect. From 2015 this request must be made to your principal by 1 August of the preceding year.

**Provide as much information as you can about your desired working pattern**

It will help us to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions. Think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your employer (keep a copy for your own records).

**The process and timeframes**

**Your Employer** must give you a written reply within 21 days of receiving your request (the reply date).

- **a)** It must state whether the request is granted or refused.

- **b)** If the request is refused the written response will include details of the reasons for the refusal.

**Your Employer** may contact you in advance of the reply date to arrange a meeting with you to discuss your request.

**Application process**

1. Please fill out the requested details on the form over the page – Attachment A.
2. Once completed, please provide a copy to your employer.
I would like to submit a request for flexible working arrangements that differ from my current working arrangements in accordance with section 65 of the *Fair Work Act 2009*. I confirm that I meet the eligibility criteria as outlined below:

**Eligibility criteria (please tick the relevant criterion):**

*At the time of making this request I am:*

- [ ] A full-time or part-time employee who has completed at least 12 months continuous service with *[insert employer name]*

- [ ] A long term casual (employed on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months) and I have a reasonable expectation of continuing employment on a regular and systematic basis

*One of the following circumstances applies to me and is the reason for me making the request for flexible working arrangements (please tick the relevant criterion):*

- [ ] I am the parent, or have responsibility for the care, of a child who is of school age or younger

- [ ] I am a carer (within the meaning of the *Carer Recognition Act 2010*)

- [ ] I have a disability

- [ ] I am aged 55 or older

- [ ] I am experiencing violence from a member of my family

- [ ] I provide care or support to a member of my immediate family, or a member of my household, who requires care or support because the member is experiencing violence from the member’s family

**Please confirm your current working arrangement (days/hours per week, start/finishing times etc)**

**Please describe the working arrangement you are requesting to work in the future:**
### Request for Flexible Working Arrangements Form

<table>
<thead>
<tr>
<th>From what date do you wish commence this working pattern:</th>
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<tr>
<td>From what date did you wish to cease this working pattern:</td>
<td>(In the Diocese of Lismore all requests are limited to a period of 12 months duration. Applicants must reapply if they wish to continue their flexible working arrangements)</td>
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<td>Please outline your reasons for the request:</td>
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<td>Please outline the impact you think the request will have on your employer and colleagues:</td>
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<td>Please outline how you believe the impact may be dealt with or mitigated:</td>
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<tr>
<td>Signature:</td>
<td></td>
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<tr>
<td>Date:</td>
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Once completed, please forward this request form to [insert name of relevant delegate responsible for assessing the application]