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Policy Steward: Chief Human Resources Officer

Flexible Work Arrangements Policy (MPF1374)

1. Objectives

1.1. The objectives of this policy are to:

- a) support the University's commitment to flexible work as part of building a diverse, inclusive and competitive workforce;
- b) assist the University to meet its obligations under the Fair Work Act 2009 (Cth), Disability Discrimination Act 1992 (Cth) and Equal Opportunity Act 2010 (Vic); and
- c) describe the circumstances in which employees may request Informal and Formal Flexible Work Arrangements and how the University will assess those requests.

2. Scope

2.1. This policy applies to the following people who are engaged in activities reasonably connected with the University and its controlled entities, except the Melbourne Theatre Company:

- a) continuing, fixed-term and casual employees of the University (together, 'employees'); and
- b) in some circumstances, people who have been offered employment with the University but have not yet commenced employment.

3. Authority

3.1. This policy is made under the University of Melbourne Act 2009 (Vic) and the Vice-Chancellor Regulation, and supports compliance with relevant University policies as well as the following legislation:

- a) *Australian Human Rights Commission Act 1986* (Cth)
- b) *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- c) *Disability Discrimination Act 1992* (Cth)
- d) *Equal Opportunity Act 2010* (Vic)
- e) *Equal Opportunity for Women in the Workplace Act 1999* (Cth)
- f) *Fair Work Act 2009* (Cth)
- g) *Health Records Act 2001* (Vic)
- h) *Privacy and Data Protection Act 2014* (Vic)
- i) *Sex Discrimination Act 1984* (Cth)
- j) *Workplace Gender Equality Act 2012* (Cth)

4. Policy

Requests for Informal Flexible Work Arrangements

4.1. The primary place of work for employees is as described in the contract of employment and as directed by the University.

4.2. The University recognises that employees may, from time to time, seek Informal Flexible Work Arrangements (defined in section 7) for purposes that are not related to a personal attribute of the employee as listed below in section 4.5. Informal Flexible Work Arrangements are made at the discretion of the University.

4.3. Supervisors are empowered at the local level to set the most appropriate arrangements for their staff, taking into consideration the needs of the individual, colleagues, the team and the University, amongst other factors.

4.4. The University provides guidance material for supervisors to assist them to consider requests for Informal Flexible Work Arrangements. Supervisors are encouraged to trial, review and adjust Informal Flexible Work Arrangements as they deem appropriate.

Requests for Formal Flexible Work Arrangements, including under the *Fair Work Act 2009* (Cth)

4.5. A continuing or fixed-term employee may request a Formal Flexible Work Arrangement if the employee:

- a) has a disability, medical condition and/or mental illness;
- b) is a parent of, or has the responsibility for the care of, a child who is of school age or younger;
- c) is a carer, as defined under the *Carer Recognition Act 2010* (Cth);
- d) is pregnant or breastfeeding;
- e) is 55 or older;
- f) is experiencing family and domestic violence; or
- g) is providing care or support to a family member or a member of their household who requires care or support because they are experiencing family violence and domestic violence.

4.6. Under the *Fair Work Act 2009* (Cth), a casual employee may only request a Formal Flexible Work Arrangement if the casual employee:

- a) has been regularly and systematically employed by the University for a sequence of periods of at least 12 months; and
- b) has a reasonable expectation of continuing work with the University on a regular and systematic basis; and
- c) has a personal attribute, or is experiencing a situation, listed in sections 4.5 (a)-(g) above.

4.7. Notwithstanding section 4.6, the University will also consider requests for Formal Flexible Work Arrangements by casual employees who do not meet the criteria under the *Fair Work Act 2009* (Cth) (as set out in that section), consistent with this Policy as appropriate.

Other requests for flexibility

4.8. A person who has been offered employment with the University but has not yet commenced employment may also have the right to seek flexibility under the *Equal Opportunity Act 2010* (Vic) or *Disability Discrimination Act 1992* (Cth) if they have a personal attribute, or are experiencing a situation, listed in sections 4.5 (a), (b) or (c) above.

5. Procedural principles

Process for requests for Informal Flexible Work Arrangements

5.1. An employee may make a request to their supervisor for an Informal Flexible Work Arrangement, in which case:

- a) for requests to regularly work from home and/or to change working hours (i.e. ongoing), they must complete and lodge the appropriate online form; or
- b) for occasional and temporary 'ad-hoc' requests, they must make the request verbally or in writing directly to their supervisor (i.e. not using an online form);

and in both cases (whether (a) or (b) above applies)

- c) the employee's supervisor will consider the request and has discretion to approve it, approve it in part, or not to approve it on behalf of the University; and
- d) in considering the request, the supervisor may take into account various factors such as the needs of the individual, the team and the University, the nature of the work performed by the employee, and any other factors the supervisor deems relevant.

Process for requests for all Formal Flexible Work Arrangements

Making a request for Formal Flexible Work Arrangements

- 5.2. An employee who wishes to request a Formal Flexible Work Arrangement under sections 4.5-4.8 must complete and lodge the appropriate online form.
- 5.3. Subject to the requirements as to privacy specified under sections 5.14 and 5.15, the employee may be asked to submit additional information to support the request.

Assessing the request

- 5.4. The University will consider the request and provide the employee with a written response within 21 calendar days of the request being lodged.
- 5.5. In considering the request, the University:
 - a) may appoint the employee's supervisor, or another authorised delegate (for example, the employee's two up manager) to consider the request and finalise a response on its behalf;
 - b) may discuss and negotiate the request with the employee and, while respecting confidentiality and privacy obligations, consult with other colleagues as needed, including HR Business Partners and other HR staff, Safety and Wellbeing, Legal and Risk, and Workplace Relations; and
 - c) will, in reviewing and assessing a request, collecting information and creating records, comply with relevant law and University policies, including the Information Security Policy ([MPF1270](#)), Privacy Policy ([MPF1104](#)), Records Management Policy ([MPF1106](#)), and the Appropriate Workplace Behaviour Policy ([MPF1328](#)).

Factors to be considered in assessing a request for a Formal Flexible Work Arrangement

- 5.6. The University will not unreasonably refuse an employee's request for a Formal Flexible Work Arrangement, but may refuse a request on reasonable business grounds, which include the following:

- a) that the new working arrangements requested would be too costly for the employer;
- b) that there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;
- c) that it would be impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the new working arrangements requested;
- d) that the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
- e) that the new working arrangements requested would be likely to have a significant negative impact on University work, whether academic, professional or other types of work.

Approved requests

- 5.7. If the University approves the request, it will document the agreed arrangements in writing.
- 5.8. Agreed Formal Flexible Work Arrangements may be periodically reviewed to ensure they continue to meet the needs of the individual, the team and the University and to discuss whether any changes are required to improve the arrangement, including if circumstances change.
- 5.9. Employees with a disability who have an approved Formal Flexible Work Arrangement are not required to re-submit documentation or other proof of their disability at each review (unless their

needs have changed), or upon a change in their direct supervisor or other circumstances.

Refused requests

5.10. The University may refuse a request made under sections 4.5-4.8 where :

- a) A discussion has taken place with the employee;
- b) The University has genuinely tried but failed to reach an agreement with the employee about making changes to the employee's working arrangements;
- c) The University has had regard to the consequences of the refusal for the employee; and
- d) The refusal is made on reasonable business grounds (which are noted in section 5.6 above).

5.11. If a Formal Flexible Work Arrangement cannot be agreed and the University proposes to refuse the original request, the employee will be provided with a written response which includes:

- a) the reasons for the refusal, including the particular business grounds for refusing the request and how those grounds apply to the request;
- b) the changes to the employee's work arrangements that the University is willing to make to accommodate (to any extent) their circumstances, or a statement that there are no such changes that can be made to accommodate the employee's circumstances; and
- c) the options of the employee if they wish to challenge the decision.

Additional factors to be considered

5.12. If a Formal Flexible Work Arrangement is requested on the basis of disability or status as a parent or carer, additional considerations may apply to those set out in this Policy, having regard to the *Equal Opportunity Act 2010* (Vic) and *Disability Discrimination Act 1992* (Cth).

Options where a request for Formal Flexible Work Arrangements has been denied

5.13. An employee whose request for a Formal Flexible Work Arrangement has been refused and who believes that the refusal is unreasonable should first discuss the matter with Human Resources or their supervisor or, if it cannot be resolved at this point, contact Workplace Relations . An employee also has a right to utilise the mechanisms in the *Fair Work Act 2009* (Cth). Depending on the circumstances, the employee may also have rights under the *Equal Opportunity Act 2010* (Vic) or *Disability Discrimination Act 1992* (Cth).

Privacy and Records Management

5.14. Privacy law applies to all personal, sensitive and health information ('personal information') collected and held by the University. In particular:

- a) Any personal , sensitive or health information that is collected or created in the implementation of this policy, including the implementation and ongoing management of all Formal Flexible Work Arrangements, must be handled in accordance with the Privacy Policy ([MPF1104](#)), the Information Security Policy ([MPF1270](#)), and the Appropriate Workplace Behaviour Policy ([MPF1328](#)) and any applicable privacy legislation; and
- b) All records must be handled in accordance with the Records Management Policy ([MPF1106](#)).

5.15. In requesting information and in documenting any request, assessment, approval and/or the ongoing monitoring of Formal Flexible Work Arrangements under this policy:

- a) a supervisor or other responsible person under this policy, including a person with delegated authority from the University, should only request and/or document the minimum amount of personal and/or health information that is necessary to assess or record the request and its outcome; and
- b) if it is necessary for the purpose of assessment of the request to capture health or sensitive information in these documents, the supervisor or other person intending to record the information should ensure appropriate consent from the individual is in place before collecting

the information, and that it is securely stored and protected from unauthorised access.

5.16. Information Governance Services in Legal and Risk provide guidance on privacy and records management obligations and responsibilities, and should be consulted as necessary to ensure compliance and best practice.

6. Roles and responsibilities

Role/Decision/Action	Responsibility	Conditions and limitations
Lodge requests for Informal or Formal Flexible Work Arrangements in accordance with sections 5.1 and 5.2 as appropriate.	Employee	N/A
Assess requests for Informal Flexible Work Arrangements, and either approve, not approve or approve the request in part.	Supervisor of the employee	N/A
Assess requests for Formal Flexible Work Arrangements, and either approve, not approve or approve the request in part, on behalf of the University.	The University or any authorised delegate(s), including the supervisor of the employee	N/A
In assessing a request, collecting information and creating records, comply with relevant law and University policies, including the <i>Information Security Policy</i> , <i>Privacy Policy</i> , <i>Records Management Policy</i> , and the <i>Appropriate Workplace Behaviour Policy</i> .		
Ensure that the employee receives a response to a request for a Formal Flexible Work Arrangement within 21 days.		

7. Definitions

Breastfeeding includes the act of expressing milk.

Campus means all the University's campuses, field and research stations, buildings, grounds, vehicles, farms, commercial operations and other locations under the University's control.

Carer has the meaning given under the *Carer Recognition Act 2010* (Cth) and means a person who provides personal care, support and assistance to another individual who needs it because that other individual:

- has a disability,
- has a medical condition (including a terminal or chronic illness),
- has a mental illness, or
- is frail and aged.

Continuing employment means ongoing employment with no fixed end date and includes Research Continuing Employment (Contingent-funded).

Flexible Work Arrangement means an arrangement that an employee may request in order to change their working arrangements, including by modifying one or more of the following modes of work:

- hours of work (for example changes to start and finish times) or days of work (for example working 4 days a week or 9-day fortnights)
- locations of work (for example working from home or alternative University of Melbourne sites)
- patterns of work (for example job sharing).

Flexible Work Arrangements includes Informal Flexible Work Arrangements and Formal Flexible Work Arrangements.

Formal Flexible Work Arrangement means a Flexible Work Arrangement that is requested by an employee under sections 4.5-4.7 (due to their personal attribute or particular situation under the *Fair Work Act 2009* (Cth)), or in some circumstances requested under section 4.8, and is approved on behalf of the University.

Informal Flexible Work Arrangement means a Flexible Work Arrangement that is requested by an employee for personal reasons rather than under legislation, and is approved on behalf of the University. Such arrangements are of two kinds:

- occasional, temporary 'ad-hoc' requests from an employee for a change in working hours or location, and/or
- requests from an employee to regularly work from home and/or to change working hour (i.e. ongoing).

Parent includes step-parent, adoptive parent, foster parent, and guardian.

Personal information means information that relates to an identified or identifiable (living) individual. It is information or an opinion about an individual whose identity is apparent or is reasonably ascertainable.

POLICY APPROVER

Deputy Vice-Chancellor, People & Community

POLICY STEWARD

Chief Human Resources Officer

REVIEW

This policy is due to be reviewed by 1 February 2027.

VERSION HISTORY

Version	Approved By	Approval Date	Effective Date	Sections Modified
1	Deputy Vice-Chancellor (People and Community)	17 November 2023	1 February 2024	New policy to replace Flexible Work Arrangements Procedure (MPF1155), revoked 1 February 2024.
2	Deputy Vice-Chancellor (People and Community)	31 January 2024	1 February 2024	Removal of text advising of future effective date, to reflect this policy is now in force. Minor amendments to ensure clarity of language, and alignment with Fair Work Act.