

1. Purpose of the policy

Transport is committed to building a workplace culture where working flexibly is a part of how we do business as a best practice employer, enabling us to attract and retain a high performing and diverse workforce.

Transport recognises there are innovative and flexible ways of working that meet business objectives at the same time as supporting employees in balancing the demands of their professional and personal life and encourage workforce participation and inclusion.

This policy sets out the principles for flexibility support and the implementation of flexible work arrangements within Transport agencies.

2. Who does it apply to?

This policy applies to ongoing and temporary employees and employees seconded from another organisation performing work for any of the following agencies:

Department of Transport* except for staff working in the DoT who follow Department of Planning and Environment policies.	YES
Transport for NSW	YES
NSW Trains	YES
Sydney Trains	YES
Sydney Metro	YES
Sydney Ferries	YES
The Point to Point Transport Commissioner	YES

The external workforce, including labour hire and external workers, is not covered by this Policy.

3. Principles and requirements

Each Transport agency is responsible for implementing its own flexible work arrangements and actively promoting flexible work practices across all categories of employment.

All employees have the right to request flexible work arrangements. Opportunities for flexibility will be provided equitably, with fair and reasonable consideration given to all requests.

Managers and employees are responsible for identifying barriers to flexible work arrangements and suggesting options and solutions to make flexible work practices a reality in the workplace.

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Requests made under this Policy and the associated Procedures will not be unreasonably refused.

3.1 Legal and Legislative framework

Anti-discrimination

The *Anti-Discrimination Act 1977* (NSW) prohibits discrimination against an employee on the basis of certain protected attributes. These include, but are not limited to, disability, age and carer's responsibility. The refusal of a request for a flexible work arrangement may be considered unlawful discrimination under the NSW Act.

The Australian Human Rights Commission Act 1986 (Cth) is the overarching legislation for federal laws relating to anti-discrimination in Australia and concerns relating to Flexible Work Arrangement requests being declined on the basis of protected attributes can be referred to the Commission.

Workplace health and safety

Managers and employees are responsible under the *Work Health and Safety Act 2011* (NSW) for making sure that any flexible work arrangement supports an employee's health and safety. As an employer, Transport must ensure that any work health and safety requirements are addressed.

Fair Work Act 2009 (Cth) – Sydney Trains and NSW Trains Enterprise Agreement employees

Under the *Fair Work Act 2009* (Cth) an employee in certain circumstances may request flexible work arrangements. In those cases the employer must respond to requests for flexible work arrangements in writing within 21 days from the date of application. Requests can only be refused on specified genuine business grounds and alternatives must be proposed and discussed with the employee. Eligible Sydney Trains and NSW Trains Enterprise Agreement employees can apply to the Fair Work Commission for dispute resolution and arbitration if they do not receive a response within 21 days of submitting their request.

While these legislative requirements relate to Sydney Trains and NSW Trains Enterprise Agreement employees only, Transport applies the same procedural processes that support these requirements to all employees covered by this policy to ensure consistency and equity in decision making.

See the *Transport Flexible Work Arrangements Procedure* for details.

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3.2 Requirements

Assessing requests and business requirements

Requests for flexible work arrangements are to be assessed by managers on a case by case basis, in a fair and timely manner in consultation with the employee.

Unless a flexible work arrangement is an entitlement arising from legislation or an industrial instrument, approval is subject to management consideration of employee's circumstances and business impacts.

Reasons for declining requests for flexibility must be reasonable, objective and justifiable.

Transport supports employees in raising concerns where reasonable requests for flexible work arrangements are not supported. Employees should contact their P&C Business Partner in the first instance, the full list of P&C Business Partners can be found on the P&C Business Partner page. All agreements include a right of return to the previous working arrangements when the flexible work arrangement ends, except in cases where an employee has moved to a part-time role on a permanent basis.

The assessment and approval processes for the different types of flexible work arrangements are detailed in the Transport Flexible Work Arrangements Procedure.

Trial period and evaluation

A flexible work arrangement approved under this policy and the relevant procedure should undergo an agreed trial period of between 3 to 6 months, to ensure the arrangement meets the flexibility required by the employee and the needs of the business. Hybrid ways of working are excepted, as these arrangements are under continuous evaluation.

Managers will regularly review and manage approved flexible work arrangements to maintain consistent outcomes and results and to ensure the arrangements continue to meet the needs of the employee and the operational requirements of the business area.

In some cases, a trial period may not be appropriate where an employee has entered into an Individual Flexibility Agreement under their Industrial Instrument, although a trial period is still recommended. Trial periods are intended to give both employees and managers an opportunity to evaluate and adjust an arrangement to suit all parties.

Documenting a flexible work arrangement

Approval of a flexible work arrangement must be documented.

Reasons for declining a flexible work request will be provided to the employee in writing within 21 days of receipt of the request.

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Refer to the Procedure for details on documentation requirements.

3.3 Flexible work options

The suitability of different flexible work arrangements will vary across and within Transport agencies according to the operational requirements of the business unit, the type of work, the employee's circumstances, and the safety and wellbeing of the employee.

The options below are some of the most common flexible work arrangements. Details of these arrangements can be found in the *Transport Flexible Work Arrangements Procedure*. This list is not exhaustive.

1. Alternative working hours arrangements.
2. Roster/shift changes.
3. Part-time work – which can be on a temporary or permanent basis.
4. Job sharing – where one job is shared between two or more part-time employees.
5. Where we work - Hybrid and Hybrid+.
6. Transition to retirement.
7. Leave Flexibility - leave without pay, career break, part-year employment, Registered Carers (Sydney Trains and NSW Trains) and other agency leave arrangements.
8. Individual Flexibility Agreement - for employees covered by the *Enterprise Agreement*.
9. Flextime - available to certain employment categories in TfNSW and Sydney Metro only. See the *TfNSW Flextime, Standard and Other Working Hours Procedure* for details.

Employees should refer to the Procedure and discuss the availability of flexible work options in their business area with their manager.

3.4 Support at Transport

Critical Incident Support

Transport is committed to ensuring the psychological health and well-being of employees who have been involved in a critical incident. To achieve this, managers, supervisors and team leaders are required to arrange prompt critical incident support for employees directly involved in, or exposed to, a critical incident.

Critical incident leave is provided to support *Enterprise Agreement* employees in their recovery and return to work while they seek professional help. An employee

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who has been exposed to a critical incident may be released from duty for a period of time necessary to facilitate their recovery.

Refer to the agency-specific *Critical Incident Support Procedure*.

Domestic and Family Violence

Transport is committed to fostering a culture that supports victims of Domestic and Family Violence to continue to participate in the workforce.

Employees who are experiencing or have experienced domestic and family violence will be supported at work through flexible work options and access to paid Domestic and Family Violence leave.

Employees supporting an immediate family member or member of their household affected by Domestic and Family Violence can also access carers leave/ FACS leave and/or flexible work arrangements.

See the *Transport Domestic and Family Violence Procedure* for more information.

4. Compliance and breach

You are required to comply with this policy and its related procedures and standards. If you do not do so, this may result in disciplinary action up to and including termination of your employment or contract.

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Appendix A:

5. Accountabilities and responsibilities

Who	
Chief People Officer	Accountable for setting the strategic direction of workplace flexibility in line with our organisational objectives and compliance obligations
Executive Director Workplace Relations Strategy and Management	Accountable for ensuring this policy continues to align with Transport's strategic direction, and that guidance and controls are in place to help business areas measure and monitor compliance with this policy and any related documents.
Chief Executives of the Transport agencies to which the policy applies	Accountable for ensuring program areas in their agencies align and comply with this policy
All employees to whom the policy applies	Responsible for complying with the principles and requirements in this policy and any related procedures or standards.

6. Related/supporting material

1. Flexible Work Arrangements Procedure

7. Document control

7.1 Superseded documents

This Policy replaces the following document:

- CP17006.3 Flexible Work Arrangements Policy

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Transport Workplace Flexibility and Support Policy

CP24003



7.2 Document history

Date & Policy No	Document owner	Approved by	Amendment notes
12 April 2024 CP24003	ED, Workforce Relations, Strategy & Management	Chief People Officer	Update to include hybrid ways of working and leave/flexibility support in relation to domestic and family violence.

7.3 Feedback and help

For further information about:

- **Flexible working arrangements**, see the Transport Flexible Work Arrangement Procedure
- this Policy, contact the TSS Service Centre or your People and Culture Business Partner. Contact details can be found on the intranet.

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