



**FLEXIBLE WORKING ARRANGEMENTS
FOR OLDER WORKERS**

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■ LEGISLATIVE FRAMEWORK

The Government is committed to removing barriers to the participation of older workers in the workforce.

The *Workplace Relations Act 1996* (the WR Act) provides considerable scope to develop working arrangements which assist older workers to re-enter or remain in the workforce.

The WR Act also includes a range of provisions intended to prevent and eliminate discrimination on a number of grounds, including age. For instance, section 3(j) of the WR Act deals specifically with discrimination on the basis of age. With respect to the age of retirement, the WR Act provides that an employer must not terminate a person's employment because of age unless it can be proven that maximum age retirement is an 'inherent requirement' of the job (s. 170CK(3)).

The WR Act also contains provision for the Australian Industrial Relations Commission to ensure that awards and certified agreements do not discriminate on the basis of age and other characteristics, with similar provisions applying to Australian Workplace Agreements (AWAs).

Earlier this year the Government introduced the Age Discrimination Bill into the Federal Parliament. The Bill makes age discrimination unlawful in a number of areas of public life (subject to various exemptions) including work.

The proposed legislation will help to change negative stereotypes about older, and younger, people particularly in relation to their abilities in the workplace. This will directly contribute to achieving the Government's aim of encouraging mature-aged participation in the workforce.

There is currently a range of anti-discrimination legislation at both the Federal and State level prohibiting discrimination, including on the basis of age. A summary of this legislation can be found on the Human Rights and Equal Opportunity Commission website at <http://www.humanrights.gov.au>.

■ A STRATEGIC APPROACH

A number of Australian Public Service (APS) agencies have recognised the issues associated with an ageing workforce and have started to develop targeted strategies to support the attraction and retention of skilled mature-aged employees.

To put strategies such as these into practice, it is imperative to have open communication between managers and employees. Agencies need to ensure they are aware of and understand the needs of employees. It is also important that employees are sufficiently educated on the options available to them to be able to initiate discussion with their employer. The resolution of issues surrounding work and personal life is not the sole responsibility of managers.

A mutual understanding between employees and their managers will assist in developing working arrangements or remuneration policies which are conducive to meeting the needs of older workers, other employees and the agency.

Examples of agency strategies that support the employment of older employees are at Attachment A.

■ SUPPORT FOR OLDER WORKERS THROUGH AGREEMENT MAKING

Agency-level agreement making has enabled a shift from APS-wide conditions of employment to tailored agency arrangements. The current devolved environment provides opportunity for managers to promote a range of flexible working options that can assist older workers and other employees to combine employment with personal responsibilities and lifestyle choices. Such flexible working arrangements can not only assist agencies to attract and retain suitable staff but also provide an opportunity to better manage the transfer of corporate knowledge from more experienced employees. For mature-aged workers, flexible working arrangements can provide an opportunity to ease into retirement.

Attachment B provides examples of clauses in agency agreements that reflect a commitment to retaining the skills, expertise and knowledge of employees who are approaching retirement age.

It is important to recognise that there will be a range of individual circumstances and preferences and, as such, a one size fits all approach is rarely likely to be successful. AWAs offer an opportunity to address specific issues that are important to individual employees. AWAs can be used to develop a conditions and remuneration package designed to meet the needs of an older worker who is seeking specific arrangements relating to his or her circumstances. AWAs are a valuable tool in retaining key employees.



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■ FLEXIBLE WORKING ARRANGEMENTS

There is already a wide range of flexible working arrangements operating across APS agencies which can be utilised to support the employment of older workers. Provisions for these arrangements can be included in an agency certified agreement or specifically tailored to the individual through AWAs. Some of these are outlined below.

PHASED RETIREMENT THROUGH PART-TIME WORK OR REDUCED WORK LEVEL

Regular part-time work is one of a range of flexible working options which can be negotiated between an employee and an employer to help workers better balance their work and personal lives. Regular part-time employees receive, on a pro-rata basis, equivalent pay and conditions to those of a full-time employee.

Similarly the option to work at a lower classification level as a transition into retirement may also suit some employees.

Part-time work (including job-sharing), or working at a lower classification level may suit employees who wish to scale down work commitments prior to retirement, and can be part of a phased retirement strategy.

Employees may phase out of certain responsibilities (for example, managerial) and utilise their knowledge and skills in other ways such as through mentoring.

A phased retirement approach (through reduced hours or working at a lower classification level) can also provide an extended period of time for the transfer of knowledge and skills prior to retirement.

Where an employee is considering entering into part-time work or moving to a lower classification level towards the end of their career both they, and their employer, should be familiar with the impact this may have on superannuation. For further information refer to the discussion on superannuation arrangements in the MAC Report on *Organisational Renewal* and the booklet *Superannuation and mature-aged APS workers* issued by the Department of Finance and Administration.

JOB-SHARING

Job-sharing, an arrangement where two or more people share a full-time job, is possible through part-time work. Job-sharing has the benefits of part-time work for mature-aged workers, and from an agency perspective might more effectively assist in the transfer of corporate knowledge from an experienced employee to others.

HOME-BASED WORK (TELECOMMUTING)

Home-based work is a flexible work initiative which can be viewed as an extension of other flexible hours arrangements.

Staff may work their ordinary hours of duty away from the workplace (at a home-based site) on a full-time, part-time or on a regular or temporary basis. Home-based working arrangements usually involve a combination of working from home and working from the office. Home-based work may also be undertaken on an ad hoc basis where, for example, employees are recovering from an injury.

As not all jobs are suited to working from home, agencies need to give careful consideration to a range of issues such as the nature of the duties, personal circumstances of the employee, occupational health and safety and the operational requirements of the agency.

Home-based work may be an option for employees who have caring responsibilities for an ill spouse or elderly relative where the level of care required is ongoing but not time-consuming. It may also provide an opportunity for an employee to begin making adjustments to their lifestyle as part of a phased retirement strategy.

FLEXTIME AND SPAN OF HOURS

Flexitime is a system of flexible working hours. It allows employees and their supervisors to vary working hours to improve client service and enable employees to better manage the balance between work commitments and their personal responsibilities.

There is considerable variation across the APS in relation to flexitime arrangements as a result of agency bargaining and local agreements. Changes to former APS-wide provisions include extended bandwidths, longer settlement periods, the removal of core hours, increased carryover credit or debit limits, and flexbank schemes.

Access to flexible working hours can assist older employees achieve a work-life balance by enabling them to arrange their hours of work to accommodate time away from work to attend to personal commitments—for example, accompanying an elderly relative to the doctor or attending grandparents' day at school.

PURCHASED ANNUAL LEAVE

Purchased leave has been made available to many APS employees through agency-level agreements. Employees are generally able to purchase between one and four weeks additional leave which is administered as if it were annual leave. An adjustment is then made to the employee's annual salary to repay the additional leave.

Flexible leave options such as purchased leave can assist employees maintain wellbeing and enthusiasm. Purchased leave can provide employees with greater opportunity to undertake new activities leading up to their retirement, such as volunteer work or hobbies, or simply provide more time to attend to family or personal responsibilities.

As an alternative to purchased leave some agencies provide half-pay annual leave.

CARER'S (OR FAMILY) LEAVE

Carer's leave is generally a component of personal leave which may also include personal sick leave and bereavement leave. The APS Award provides for an aggregated personal/carer's leave entitlement of 13 days full pay (10 days full pay sick leave and three days full pay bereavement leave). A maximum of five days paid leave per annum may be utilised from the aggregated entitlement to provide care and support for family or household members.

While some agencies have translated the general provisions of the APS Award to their agreement, other agencies have varied carer's leave provisions to better

meet specific agency needs. Changes include extending the number of days available for personal/carer's leave, removing the cap of five days carer's leave and establishing 'no limit' or pooling arrangements for the management of leave.

Many older workers have caring responsibilities for family members—for instance, elderly relatives, an ill spouse or grandchildren. Flexible leave provisions such as carer's leave provide access to time away from work to attend to these responsibilities.

CAREER BREAKS (LEAVE WITHOUT PAY)

Career break schemes may enable employees to pursue interests or activities outside of the workplace, which may assist in the transition from full-time work to retirement—for example, leave to pursue volunteer activities or other special interests. Career breaks may also enable older workers to attend to intensive or long-term caring responsibilities.

Some organisations encourage employees to plan sabbaticals (an extended period away from work to pursue study or other developmental opportunities) as a means of maintaining drive and expertise.

Purchased leave arrangements (similar to purchased annual leave) may provide an option for a career break/sabbatical—for example, an employee may opt to be paid four years' salary over a period of five years and take the fifth year out of the workplace.

Staff who are on an extended form of leave may wish to be kept informed of developments and decisions regarding their workplace. Procedures can be put in place to maintain contact with staff who are on an extended absence—for example, regular contact via newsletters or email.

LONG SERVICE LEAVE

Long service leave entitlements for APS employees are provided for by the *Long Service Leave (Commonwealth Employees) Act 1976*.

The purpose of long service leave is to provide employees with access to an extended period of leave after a long period of service. It accrues at the rate of three-tenths of a month for each year of service and may be accessed after a continuous period of 10 years.

An employee may elect to take long service leave on half pay, which will enable them to extend the period of leave. Long service leave has traditionally been accessed in periods of not less than 15 calendar days; however, a number of agencies now allow staff to access leave in minimum blocks of seven calendar days.

As noted above, procedures may be put in place to maintain contact with staff who are on long term leave to keep them informed of developments within the workplace.

NON-ONGOING OR CONTRACT EMPLOYMENT

Re-engagement of former APS employees in different arrangements such as non-ongoing or contract work has become quite common, enabling agencies to draw upon the knowledge and expertise of valued former employees which may otherwise have been lost to the organisation.

These types of employment arrangements may suit agencies who already employ a number of staff on short term project work and wish to draw upon the expertise and skills of former employees.

Where a former APS employee may be re-engaged, both the agency and the prospective employee should familiarise themselves with the impact this will have on their superannuation arrangements.

Further information on this issue is set out in the MAC Report on *Organisational Renewal* and in the booklet *Superannuation and mature-aged workers* issued by the Department of Finance and Administration.

Some examples of how agencies and companies have implemented flexible working arrangements in ways that are relevant to them are at Attachment C.

■ MAKING A START

BUILDING AN ENVIRONMENT WHERE MATURE-AGED WORKERS CAN DISCUSS THEIR PLANS

It is important that agencies build an environment where managers and employees can openly and honestly discuss issues about balancing their work and personal life. In respect of mature-aged workers, this should also include issues such as their retirement plans and other work-life issues. For example, if an employee wishes to alter their working arrangements due to personal commitments such as assisting in the care of grandchildren or lifestyle changes, they should feel able to raise these issues with managers. Discussing these issues will assist the agency with its workforce planning.

UNDERSTANDING EMPLOYEE NEEDS

Employee needs are not homogenous. It is therefore important to identify the individual issues facing particular employees. Tools such as employee surveys or discussion forums may be useful in identifying issues and concerns and provide the basis for the development of an employee retention strategy.

EXISTING FLEXIBILITIES

Agencies should utilise the flexibilities provided by agreement making, for example AWAs, to develop working arrangements that will meet the needs of the older workforce. Developing flexible agency agreements maximises the scope to respond to differing individual needs and circumstances.

In particular, where superannuation is an issue, agencies should be aware of existing flexibilities, concerning the setting of superannuation salaries in agreements, for CSS and PSS members, that are different from the default CSS and PSS superannuation salaries. These are set out in guidelines that were issued to all APS agencies in August 2003 and which set out the arrangements that an employer can utilise where they wish to retain the services of a valued mature-aged worker, by increasing the employee's superannuation salary (without increasing their take-home pay).

THINKING OUTSIDE THE SQUARE

Both employees and managers should be prepared to think outside the square to develop the strategies that will be necessary to retain valued and skilled employees.

■ REFERENCES

Agency agreements online at <http://www.workplace.gov.au> and navigate through the following links:

- Commonwealth Public Sector
- Australian Public Service Agencies
- Agency Agreements online

APS Award 1998, which may be found at http://www.airc.gov.au/looseleaf/list/AW766579_intro.htm

Department of Employment and Workplace Relations, E-Guide—An Online Guide to Australian Government Employment, <https://www.eguide.dewr.gov.au/>

Department of Employment and Workplace Relations, *Work and Family Unit, Guide to Issues for Older Workers*, September 1999

Long Service Leave (Commonwealth Employees) Act 1976

Workplace Relations Act 1996



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■ ATTACHMENT A

AGENCY STRATEGIES

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES—STRATEGY FOR RETAINING OLDER WORKERS

The Department of Family and Community Services FaCS has made a commitment in their agency agreement to developing a strategy to support the continued employment of experienced employees who may otherwise retire. FaCS is in the process of developing this strategy.

Issues being considered include:

- roles for older staff, for example
 - as coaches and mentors
 - on special projects
 - on projects using corporate memory
 - on projects necessitating specific expertise
 - on critical projects
 - on areas of important government legislation
- options to retain older staff, for example
 - part-time work before and/or after retirement
 - use of flexible work hours of duty
 - ongoing development opportunities
 - home-based work
 - use of AWAs for salary and superannuation flexibility

- provision of financial advice and retirement counselling
- childcare to be extended to include grandchildren
- linking performance and development via Individual Performance Management Schemes to achieve corporate goals
- utilising existing strategies such as health rebate, senior officer time away from work, study assistance, salary packaging and volunteering
- existing working environment conditions such as influenza vaccinations and promoting good health
- surveys of employees who are approaching retirement age to determine their retirement plans
- workplace flexibility.

DEPARTMENT OF EMPLOYMENT AND WORKPLACE RELATIONS—MATURING WORKFORCE STRATEGY

The Department of Employment and Workplace Relations (DEWR) is in the process of developing a comprehensive mature-aged employment strategy. The strategy will encourage key employees to postpone and/or phase-in their retirement, and will also include options to encourage employees to consider post-retirement return to work.

Possible options include:

- education options
 - building on an existing initiative in DEWR's South Australian office which entails organising regular mature-aged workers seminars as joint ventures

with the South Australian Equal Opportunity Commission, the Council on the Ageing and Business SA

- employment and work options
 - part-time work
 - irregular or intermittent and contract employment
 - consideration of the nature of work and roles performed
 - reskilling
 - encouragement of flexible working conditions
- remuneration options
 - a superannuation salary adjustment for essential CSS employees who might otherwise take the 54/11 option
 - targeted use of retention payments for key people
- workforce planning and knowledge management strategies which will deal with knowledge transfer and succession planning.

GEOSCIENCE AUSTRALIA—RETENTION STRATEGIES FOR OLDER WORKERS

The current Geoscience Australia Certified Agreement contains provisions for offering flexible working conditions to all staff and can be actively applied by management to address the needs of valued mature-aged workers.

Employees nearing retirement can apply for management approval to:

- take leave without pay for up to 12 months
- vary their hours from full-time to part-time (there would be no 'loss' of superannuation benefits already accrued and the future benefit will be based on the equivalent full-time superannuation salary pro-rated in accordance with the proportion of full-time hours worked)
- take a voluntary reduction in level of responsibility, and hence salary (without loss of superannuation benefits)
- purchase additional leave through a reduction in salary (without loss of superannuation benefits).

AWAs AND SUPERANNUATION

The above working conditions can be accommodated within AWAs so that remuneration and conditions packages can be tailored to retain valued mature-aged workers, particularly in meeting their needs in relation to maintaining superannuation benefits.

Geoscience Australia will investigate ComSuper's availability to deliver in-house superannuation seminars to clarify ways in which remuneration packages can be tailored to meet the needs of valued mature-aged workers to assist managers and individuals to make better informed employment decisions.

■ ATTACHMENT B

AGENCY AGREEMENTS

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES CERTIFIED AGREEMENT 2002-05

11 RETAINING THE SERVICES OF OLDER FACS EMPLOYEES

- 11.1 In line with policies being developed to maintain employment for older workers in the Australian workforce, it is agreed that FaCS should aim to become a model APS employer by developing a strategy to retain the services of its very experienced employees beyond an age where they might otherwise seek to retire.
- 11.2 FaCS will consult its employees and their representatives, including the union, about the proposed framework for the strategy, its development and proposals for its implementation.

PEOPLE, LEADERSHIP AND PERFORMANCE IMPROVEMENT—AN AGREEMENT FOR THE STAFF OF THE DEPARTMENT OF HEALTH AND AGEING 2002-04

109 SUPPORTING OLDER WORKERS

The department values the extensive skills, expertise and corporate knowledge held by older workers. In an effort to support older workers to remain in the workforce past the minimum retiring age, the department will develop a strategy to encourage better access to, and use of, the available flexible employment conditions.

COMCARE CERTIFIED AGREEMENT 2002-05

SUPPORT FOR OLDER WORKERS

98. Against the background of demographic trends leading to an overall ageing of the Australian Public Service workforce, Comcare is committed to implementing measures to retain the skills, expertise and corporate knowledge of workers approaching retirement age. Comcare will support older workers to remain in the workforce by:
- (i) promoting the availability of flexible working arrangements, including part-time employment, jobsharing and home-based work, as specific options for older workers
 - (ii) facilitating re-training and mobility for older workers
 - (iii) facilitating the transfer of corporate knowledge prior to retirement through mentoring and other arrangements
 - (iv) raising awareness, through relevant training, information and education programs, of the principles and options for retaining and supporting older workers
 - (v) eliminating any potential employment-related disadvantages based on age within Comcare.

■ ATTACHMENT C

EXAMPLES OF FLEXIBLE WORKING ARRANGEMENTS

Agencies and companies have implemented flexible working arrangements in ways that were relevant to them.

COMCARE—ALTERNATE WORK WEEKS

Comcare operates a call centre employing 7 staff—including one manager. The majority of staff are older workers with the youngest staff member being 44 years of age. The centre operates between 8:30am and 5:00pm with peak operating hours between 11:00am and 3:30pm. These hours are addressed by two permanent part-time staff starting later and finishing earlier to ensure maximum coverage at peak periods. However, peak work demands combined with the small number of staff restrict the type of working patterns that may be adopted.

In response to employee requests for flexible hours the call centre introduced a job-sharing arrangement between two employees. Each employee works alternate weeks allowing one full-time position to be staffed.

The idea originally came from one of the employees who wished to reduce her hours and work every second week in order to spend the alternate weeks caring for her grandchildren. The part-time hours were approved although there were some initial concerns with how the 'one week on, one week off' arrangement would be accommodated in the small workplace. An unsuccessful attempt was made to recruit to the other half of the 'one week on, one week off'. Fortunately the issue was resolved when a second employee opted to reduce her

hours and work on the alternate week (also a grandmother taking on childcare responsibilities).

The 'one week on, one week off' arrangement has enabled both employees to make adjustments to their lifestyle and accommodate new priorities—in this instance, spending time with grandchildren. By allowing its employees to make these changes the agency has been able to retain valued people who may otherwise have left the organisation and recruit another person to a full-time position.

The job-sharing arrangement has enabled the employees to achieve a higher degree of flexibility with their hours than may otherwise have been possible.

Comcare believes that a working culture which was prepared to experiment with new ways of working was a key factor in the success of this arrangement.

AUSTRALIAN TAXATION OFFICE (ATO)—FLEXIBLE WORKING HOURS AND CARERS' LEAVE

The ATO provides an example of how existing flexible working options can assist older employees to better balance their work and personal commitments. For example, the agency operates a system of 'regular hours' where employees and supervisors negotiate the pattern of hours an employee is to work (within a bandwidth of 7:00am to 7:00pm).

Flextime arrangements operate in conjunction with regular hours allowing employees flexibility in managing their own working patterns subject to operational requirements.

Regular hours may be arranged so that an employee works over a reduced number of days in the week or fortnight. Some older employees have utilised these arrangements to have an additional day away from the workplace each week or fortnight to pursue new interests or share the caring of grandchildren. Others have adopted a compressed work week to reduce the time spent travelling to and from the office.

The ATO also provides for a pool of carers' leave which is accessed according to the needs of employees rather than on the basis of individual entitlement. The maximum continuous period of leave that may be accessed is generally one week, but leave may be approved for up to two weeks. A number of older employees utilise the carers' leave to attend to elder care responsibilities.

ANZ BANKING GROUP LIMITED—LIFESTYLE LEAVE AND CAREER BREAKS

ANZ is currently developing options to support the employment of older workers. The bank recognises that employees who are approaching retirement may wish to begin making adjustments to their lifestyle prior to leaving paid employment.

As part of this process they have introduced Lifestyle Leave, which is a purchased leave arrangement that allows employees to purchase up to an additional six weeks annual leave each year—a 46/52 model. The purchased leave may be taken in one block or accessed as little as one day at a time. Employees can choose to work a nine-day fortnight by accessing one day of purchased leave every second week.

While the purchased leave is available to all employees, those who are nearing retirement are encouraged to consider using the leave to pursue outside interests such as volunteer work and hobbies, or to work a little more flexibly.

The bank also allows employees to take extended leave without pay to take up volunteer positions.

Other areas that ANZ will be considering include flexible and customised working arrangements, knowledge management (including how to retain people who can contribute to mentoring), life planning, learning and development, and project-based work.

DEPARTMENT OF IMMIGRATION, MULTICULTURAL AND INDIGENOUS AFFAIRS (DIMIA)—NON-ONGOING EMPLOYMENT

DIMIA has been able to draw on the expertise of certain former employees through non-ongoing employment arrangements. This practice has become more common over the last two years as an increasing number of key employees have resigned to take advantage of the CSS 54/11 superannuation option.

Former employees with a high degree of expertise have been recruited to work on specified short-term projects. For example, a former director was engaged for six months to manage the human resource aspects of a new area of business for the department, and another was engaged to undertake a special security-related project.

Non-ongoing employment contracts generally range from 3 to 12 months.

ALCOA KAAL AUSTRALIA PTY LIMITED—JOB SHARING

Alcoa Kaal is a manufacturing company with a workforce of approximately 800 employees based at two different work locations. The company aims to create a culture where employees are happy to raise work and family issues and adopt working patterns that better enable them to balance work and personal commitments.

Alcoa encourages employees to consider alternative working arrangements which may assist them balance work and personal commitments, including part-time work or job-sharing for older employees who wish to make a gradual transition into retirement.

Job-sharing arrangements are initiated on an individual basis. Where an employee requests access to reduced hours they may approach the company, which will then consider whether the employee's duties need to be changed in order to accommodate the new hours. In the majority of cases there is some redesign of the duties the employee performs. As there are a number of older employees who have chosen to reduce their work hours it has been possible to develop several job-sharing positions.

Alcoa believes this approach has enabled them to strike a balance between the needs of younger and older workers. The job-share positions are staffed mainly by older men who have opted for a phased retirement and younger women with childcare responsibilities. The company is also keen to attract and retain female employees, and the availability of flexible options such as job-sharing has helped to achieve this goal.

GEOSCIENCE AUSTRALIA (GA)—REWARDING VALUED MATURE-AGED WORKERS

GA proposes to include in its Rewards and Recognition Program a Fellowship Program which aims to reward valued staff who are approaching retirement or who have retired with the opportunity to undertake project work of interest and of benefit to GA. The proposed program comprises:

- a research fellowship for staff at executive levels who are aged between 55 and 65 years and who are able to deliver on a program of work contributing to key corporate outcomes—appointment would be for up to 12 months
- an honorary fellowship for staff who have retired and who have specialist expertise to contribute to a program of work or key corporate outcomes. The beneficiary would not receive financial compensation but would have the use of GA facilities and some research freedom.

Nominations for this program would be assessed by GA's Executive Board on recommendation of senior management against specific criteria to be developed.

