

**Colin
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HR Highlights Series.

Is working from home really working?

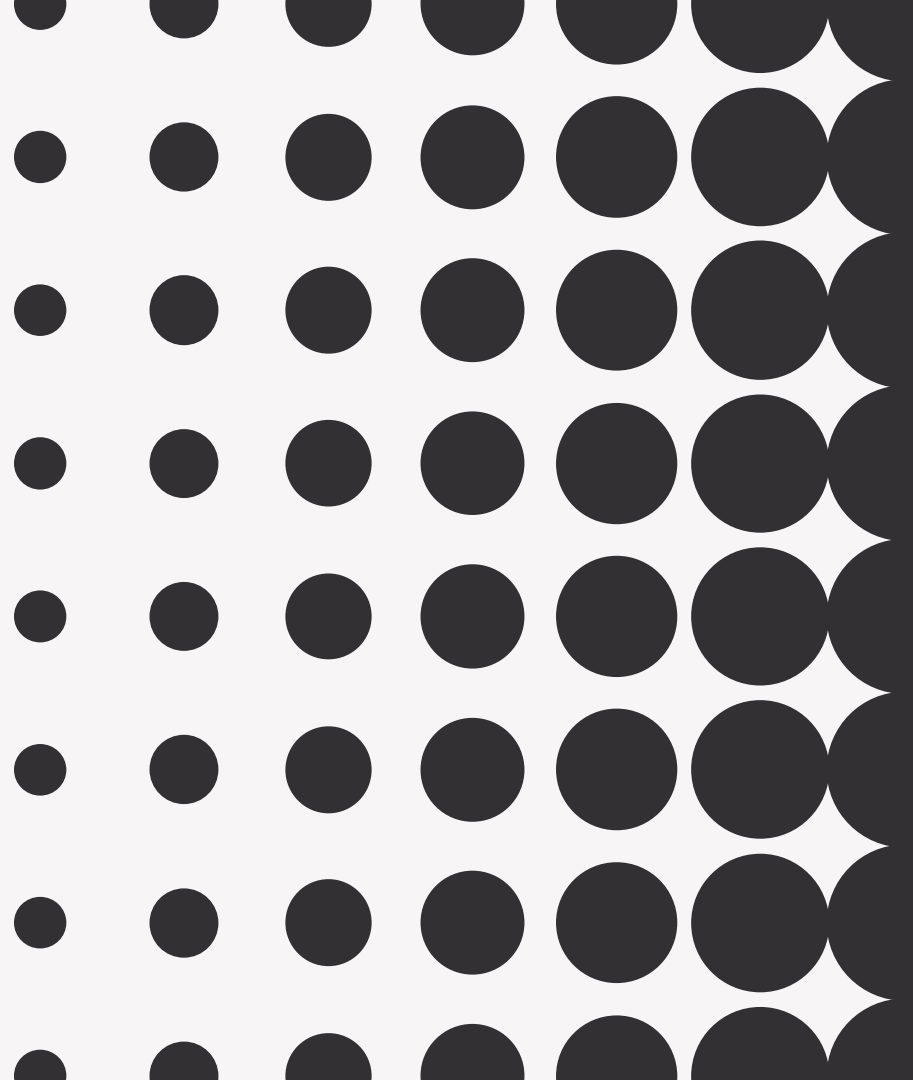
Matthew Giles, Partner

Zoe Jeffrey, Solicitor

Wednesday 16 September 2026

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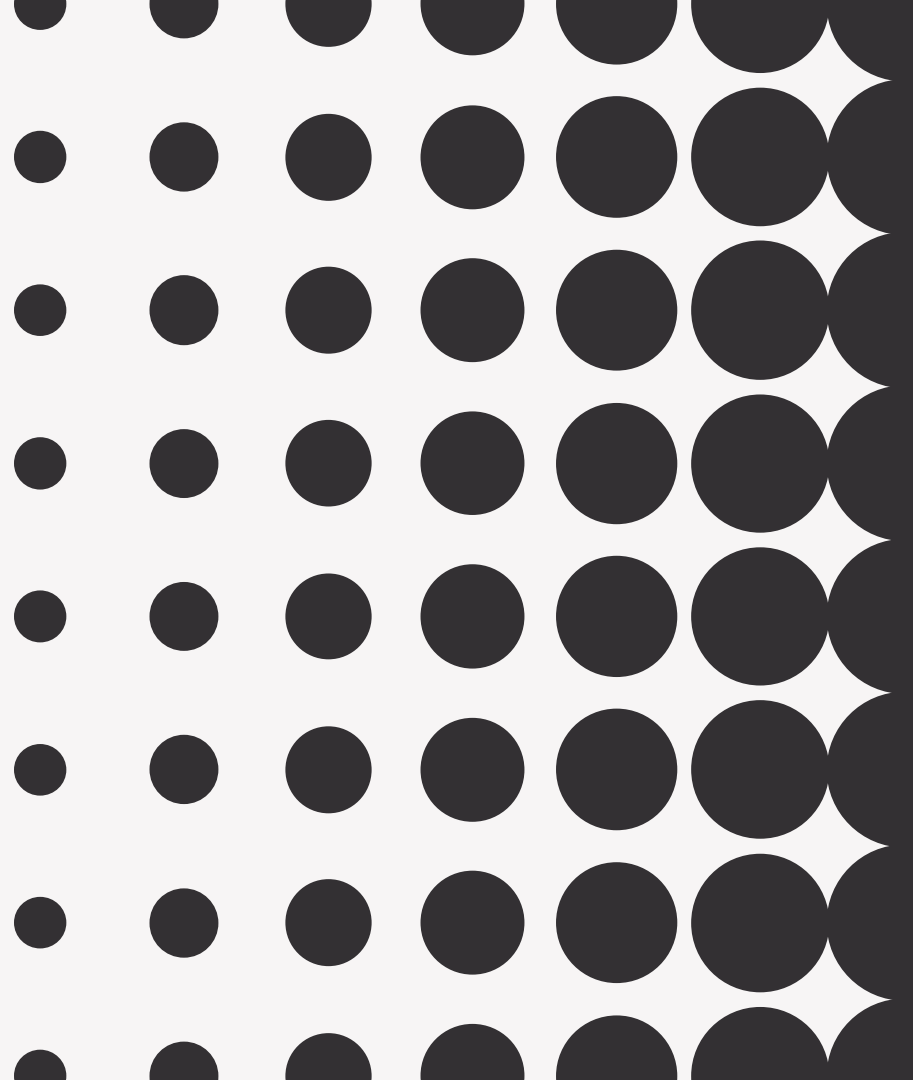


What are we seeing?

- **36%** of Australians usually work from home (as at August 2024 and August 2025)
 - **5%** of Australians regularly worked from home prior to COVID
 - **60%** of managers and professionals usually work from home, while only **21%** of workers in other occupations do so
 - Participation in jobs that could be performed from home increased by **9%** for women with young children and **4.4%** for people with a disability or health condition following COVID
 - **14.3%** of Australian job advertisements in August 2024 referred to remote work arrangements (3x higher than pre-COVID)
- Legislative changes
- Increase in disputes
- Change in community expectations which is being reflected by the Commission

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Relevant legislation



Fair Work Act 2009 (Cth): Flexible Work Requests

Australia's national framework is a right to **request**, not a right to work from home. The legal focus is therefore on **process, consultation** and evidence-based decision making.

Topic	Provision	What employers need to know
Eligibility to request flexible work	s 65	Eligible employees with 12 months' service, including carers, parents of school-aged children or younger, employees with disability, pregnancy , age 55+ , and family and domestic violence circumstances ; may request flexible working arrangements including work from home.
Discussion requirement	s 65A(1)(a)	Employers must discuss the request with the employee and genuinely try to reach agreement.
Written response	s 65A(1)(b)	Employers must provide a written response within 21 days .
Refusal of request	s 65A(2)	Requests can only be refused on reasonable business grounds .
Alternative arrangements	s 65A(1)(c)	If refusing the request, employers must consider and discuss alternative working arrangements.
Reasonable business grounds	s 65A(5)	The Act sets out examples including cost, capacity, efficiency, productivity and customer service impacts.
Dispute resolution	ss 65B-65D	The Fair Work Commission may arbitrate disputes if agreement cannot be reached.

WFH under the *Industrial Relations Act 2016* (Qld)

Who can request flexible work?

s 27

- Applies broadly to Queensland public sector employees.
- Requests may relate to hours of work, patterns of work or place of work, including WFH.
- Unlike the Fair Work Act, eligibility is not limited to employees with particular caring, family, age or disability-related circumstances.

Employer obligations

S 28

- Respond in writing within 21 days.
- May approve, partially approve, impose conditions or refuse.
- Any refusal, partial approval or conditions must be based on reasonable grounds.
- Written reasons must be provided.

Dispute resolution

Chapter 6

- The Queensland Industrial Relations Commission may hear and determine disputes concerning requests for flexible work arrangements.

Queensland

- Broad right for public sector employees to request flexible work
- Includes requests to change hours, work patterns or place of work.
- Refusals must be based on reasonable grounds.
- QIRC dispute resolution

WFH under the *Government Sector Employment Act 2013* (NSW)

s 63 | Workforce management

- Agency heads are responsible for workforce management, including flexible and contemporary ways of working.

NSW Premier's Department Flexible Work Policy

- Flexible work is the default position where operationally feasible.
- Flexible work may include hybrid work, remote work and altered work patterns.
- Employees do not require a prescribed reason to seek flexible work arrangements.

Operational requirements remain paramount

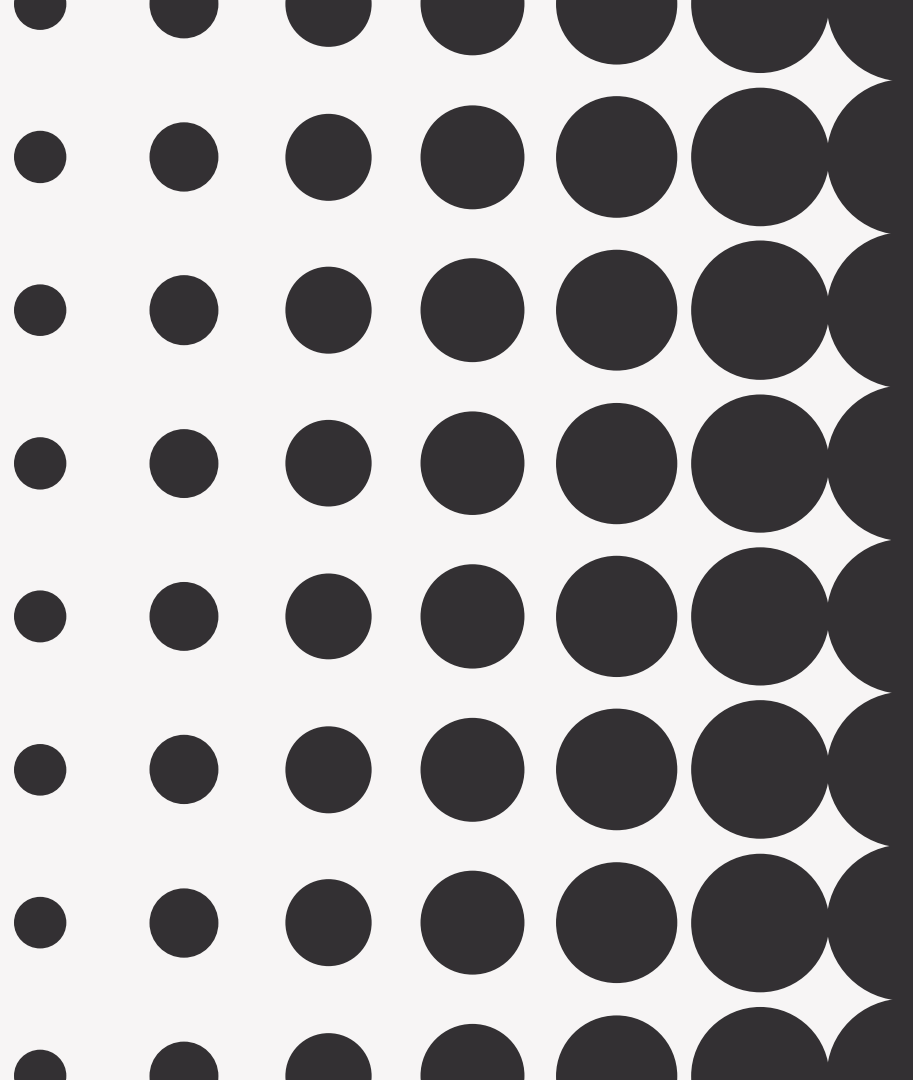
- Agency heads may require office attendance where justified by operational, service delivery or workforce needs.
- Flexible work arrangements are not an automatic entitlement.

New South Wales

- Supports flexible work arrangements across the NSW public sector.
- Agency heads have obligations to facilitate flexible work where operationally appropriate.
- Flexible work includes remote work and hybrid arrangements.
- Decisions remain subject to operational requirements and service delivery needs.

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An update regarding the proposed Victoria changes



Victoria's proposed right to work from home remains on hold...

Australia's first proposed statutory right to work from home has not become law.

The *Equal Opportunity Amendment (Work From Home) Bill 2026* remains before Parliament.

The **proposed** regime:

- Statutory protected right to work from home **two days per week** for full-time workers and pro-rated for part-time employees.
- **Timeframe**
 - Employers must respond to requests within **28 days** (*extended from 21 days following recent amendments*).
- **Assessment**
 - Employers must assess requests against prescribed statutory criteria.
 - Recent amendments broadened the grounds for refusal by replacing "significant adverse impact" with "**material adverse impact**".
- **Employer support**
 - If a request is approved, employers must provide the **equipment, systems** and other resources reasonably necessary to enable effective work from home arrangements.

Current status

- Bill remains before Parliament
- Referred to select committee (11 September 2026)
- Proposed commencement delayed to **1 July 2027**
- Small business commencement delayed to **1 January 2028**
- Future implementation uncertain

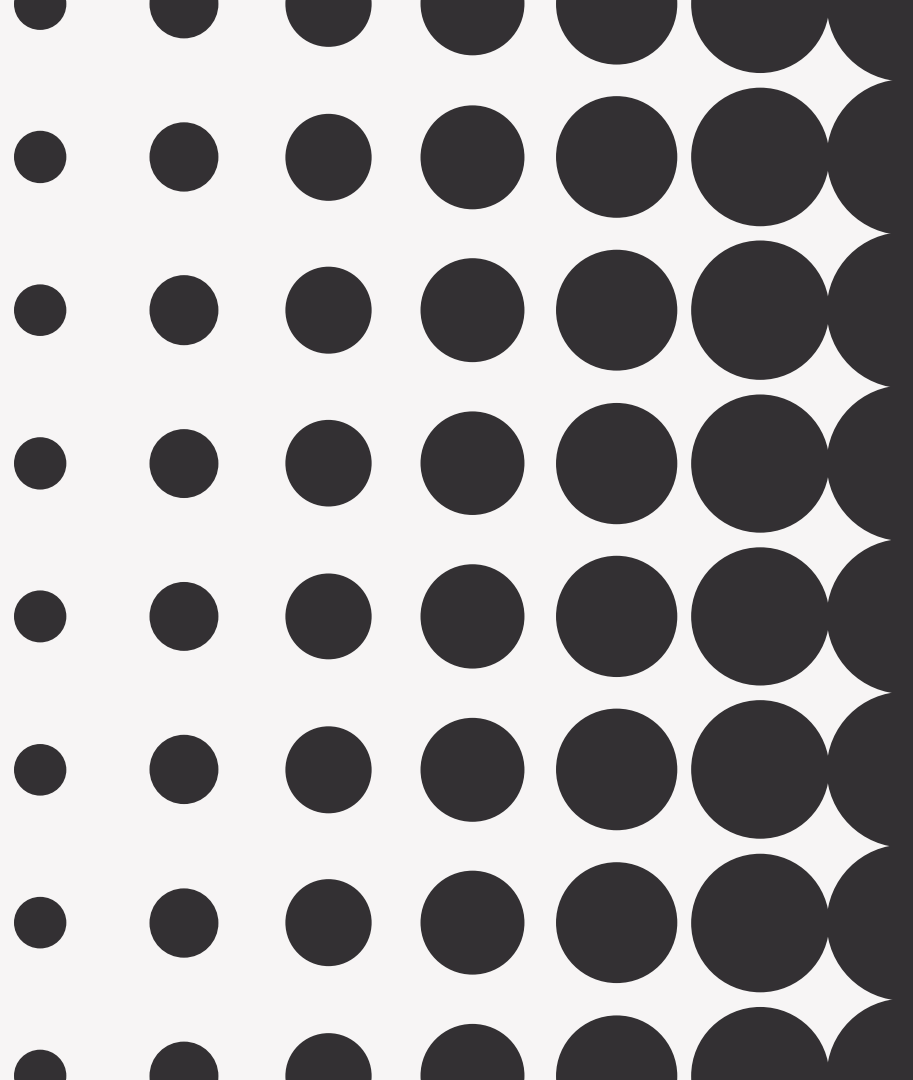
How could employers refuse a WFH request under the proposed Bill?

A request may be refused where, having regard to the **inherent requirements of the role** and the **operational needs of the employer**, working from home would:

- prevent the employee from performing the inherent requirements of their role;
- cause a **material decrease in productivity or efficiency**;
- have an adverse impact on safety;
- have a **material adverse impact** on supervision, training or professional development;
- have a **material adverse impact** on stakeholder, client or customer relationships;
- have a **material adverse impact** on customer service outcomes;
- have a **material adverse impact** on confidentiality or data protection;
- impose excessive financial costs;
- require impractical changes to working arrangements; or
- require impractical new hires.

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Other Relevant Considerations



WFH rights can arise from Awards and Enterprise Agreements

Modern awards generally regulate WFH indirectly through consultation, hours of work, overtime, rostering and allowance provisions. In particular, consultation clauses found in most modern awards may be triggered by changes to work location, attendance requirements or working arrangements.

Additionally, Enterprise Agreements increasingly include express clauses dealing with hybrid work, attendance requirements, equipment, expenses and review of WFH arrangements.

Award (Clause)	WFH relevance
<i>Banking, Finance and Insurance Award 2020 (cl 8)</i>	Consultation obligations may arise when introducing, varying or withdrawing WFH arrangements.
<i>SCHADS Award 2010 (cl 8)</i>	Consultation may be required where WFH arrangements involve significant changes to working arrangements.
<i>Educational Services (Schools) General Staff Award 2020 (cl 8)</i>	Changes to work location, duties or work practices associated with remote work may trigger consultation obligations.
<i>Clerks - Private Sector Award 2020</i>	Employees working from home remain subject to award provisions dealing with ordinary hours, overtime and meal breaks.

Issue	Award risk
<i>Hours of work</i>	When does the employee start and finish work?
<i>Overtime</i>	Has overtime been authorised or permitted?
<i>Meal breaks</i>	Are award break entitlements being observed?
<i>Availability</i>	When must employees be contactable?
<i>Expenses & equipment</i>	Who pays for equipment and utilities?
<i>Consultation</i>	Does a change to work location trigger consultation obligations?

WHS obligations follow employees home

Employers' WHS obligations apply regardless of where work is performed. When assessing WFH arrangements, employers must consider both **physical** and **psychosocial** risks.

Legislative framework

WHS Act 2011 (Qld/NSW/ACT) s 19

- Duty to ensure, so far as reasonably practicable, the health and safety of workers.

Occupational Health and Safety Act 2004 (Vic) s 21

- Duty to provide and maintain a working environment that is safe and without risks to health.

Physical hazards

- Ergonomic workstation set-up
- Manual handling and workstation equipment
- Slips, trips and electrical safety
- Fatigue and working hours

Psychosocial hazards

- Social isolation and reduced support
- Poor supervision and communication
- Blurred boundaries between work and personal life
- Excessive workloads and after-hours contact

When WFH requests become discrimination issues

Disability

Disability Discrimination Act 1992 (Cth) ss 5, 6, 15

- WFH requests may form part of an employee's request for a reasonable adjustment.

Pregnancy

Sex Discrimination Act 1984 (Cth) ss 5, 7, 14

- Hybrid or remote work may be sought to accommodate pregnancy-related needs.

Carers and parents

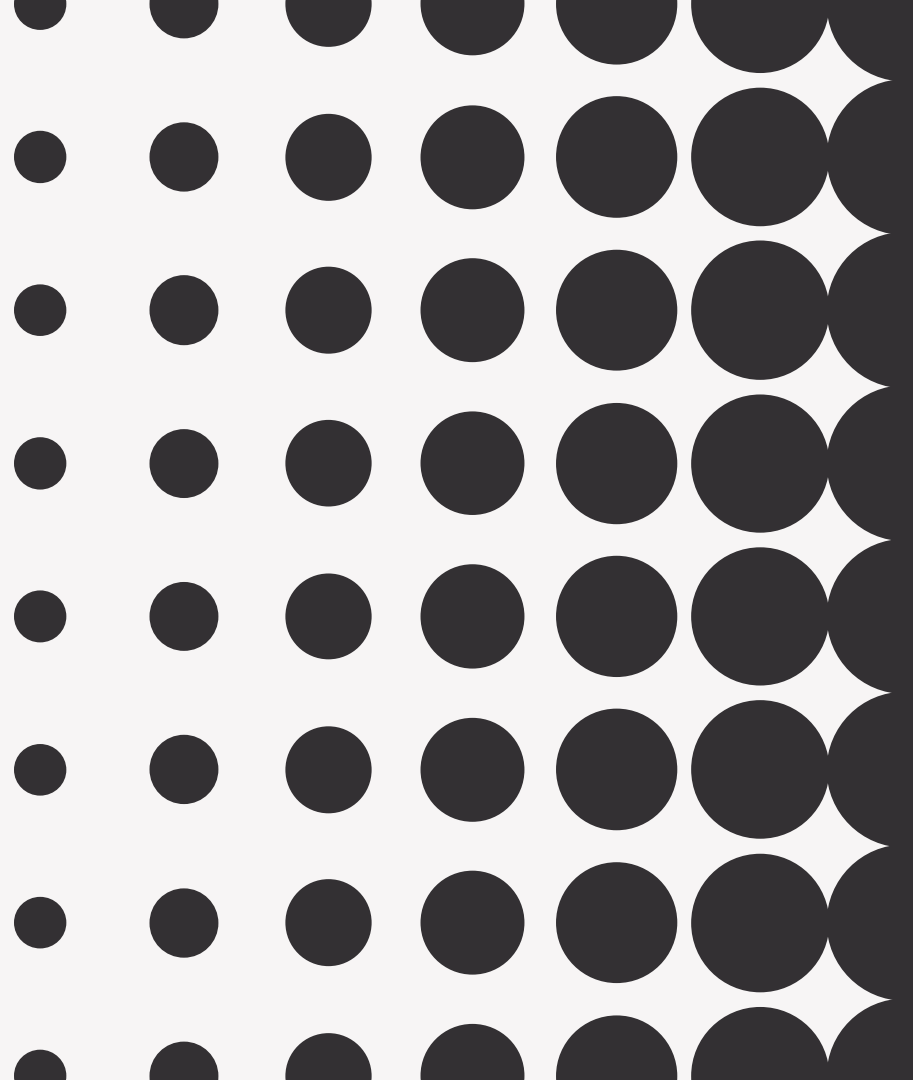
Sex Discrimination Act 1984 (Cth) s 14

- Refusing flexibility may create discrimination risk where caring responsibilities are relevant.

When assessing a WFH request, consider whether it engages **anti-discrimination obligations**, particularly where disability, pregnancy or caring responsibilities are involved.

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Recent case law



Operational requirements outweighed personal circumstances

Jonathon Robinson v Australian Financial Complaints Authority Ltd [2026] FWC 2720

The employer was entitled to refuse a 100% work from home request on reasonable business grounds even where the request itself was made due to the specific circumstances of the employee.

- Mr Robinson worked a 9 day fortnight as a Dispute Resolution Specialist
- Had carer responsibilities - wife who was immunocompromised, and child with other medical issues.
- Mr Robinson asked for a 100% WFH arrangement.
- Employer rejected the request, asked Mr Robinson to make a gradual return to the office of 1 day per fortnight, increasing to 3 days per fortnight in line with the company's 'guideline to hybrid work'.
- Employer argued that the inherent requirements of Mr Robinson's role included collaboration, engagement and team connection, which would not be possible if his request was accepted.
- The **FWC** agreed with the employer:
 - The employer had **reasonable business grounds** for the refusal; and
 - It had **considered the consequences** of refusing the request (including the impact on Mr Robinson's specific circumstances) as stated under s65A(3)(c).

Safety can be a reasonable basis for refusing WFH

Mathews v Greater Shepparton City Council [2026] FWC 3351

The employer refused a flexible work request where the arrangement was inconsistent with legitimate workplace health and safety measures.

- The Council had experienced incidents involving threatening behaviour towards staff at its Visitor Centre.
- Following a workplace review, the Council adopted a two-person staffing model for the Visitor Centre during operating hours.
- The employee sought to maintain her existing Sunday hours by working from home before and after her shift at the Visitor Centre.
- The Council refused the request, citing:
 - safety concerns associated with staff working alone; and
 - its decision to align staff hours with the Centre's operating hours.

The **FWC** sided with the employer:

- Maintaining two employees at the Visitor Centre was a **reasonable safety measure**.
- **Aligning staff hours** with the Centre's **opening hours** was a reasonable **operational requirement**.
- The employer therefore had **reasonable business grounds** for refusing the request.

The process matters as much as the outcome

Nasser v Secretary, Department of Communities and Justice [2026] NSW PIC 450

A government employer successfully identified operational concerns, but failed to demonstrate that the process used to review an existing flexible work arrangement was reasonable.

- Employee worked as a Client Services Officer in the NSW Department of Communities and Justice, a frontline customer-facing role.
- **Employee had an approved arrangement** allowing her to: finish work at 4:00pm each day; and work from home on Wednesdays.
- The arrangement assisted the employee to care for her grandson, who had significant disabilities and ongoing medical appointments.
- Following a management restructure, the employee was told she would need to return to standard customer-facing duties and that her arrangements would be reviewed.
- Before any review was completed, her **roster was changed** in a way that was incompatible with the arrangement.
- The employee was required to provide extensive medical and supporting information to justify continuing the arrangement.

The **PIC** found:

- The **arrangement** was effectively **withdrawn abruptly**.
- The employer **did not adequately explain** why the existing arrangement could not continue and **did not properly consider** why the arrangement had originally been approved.
- The employer **failed to demonstrate** that its actions were **objectively reasonable**.
- The employee's **resulting psychological injury was compensable**.

WFH bid rejected in ADHD and migraine case

Huxhagen v AWP Australia Pty Ltd trading as Allianz Partners [2026] FWC 745

An employer may refuse a request for full-time work from home arrangements where a hybrid arrangement adequately accommodates the employee's circumstances and there are reasonable business grounds for refusal.

- Employee worked as a Travel Help Desk consultant for Allianz Partners in Brisbane.
- Employee had ADHD, anxiety and migraines, and **sought to work 100% from home** due to bright lights, noise and workplace distractions.
- An independent psychiatrist confirmed the employee's conditions but concluded he was capable of attending the office **at least two days per week**.

Allianz offered:

- Permanent part-time hours; a fixed work schedule; a phased return-to-office plan; and workplace accommodations recommended by the employee's doctor.

The **FWC** sided with the employer:

- Allianz had **genuinely considered the request** and **proposed alternative arrangements**.
- The **medical evidence** supported a hybrid arrangement, rather than permanent work from home.
- Allianz established **reasonable business grounds** including:
 - Team engagement, collaboration and performance management.
 - Service delivery, operational support and system resilience
- The request for permanent work from home was therefore refused.

The FWC may impose a middle-ground solution

Ridings v FedEx Express Australia Pty Ltd [2024] FWC 1845

The FWC is not limited to approving or refusing a flexible work request. It may order an alternative arrangement.

- Brisbane-based Clearance Classifier sought to work **100% from home**.
- Employee relied on significant caring responsibilities for:
 - two children with autism and high support needs; and
 - a spouse with autism and a degenerative physical condition.
- Employee had worked remotely during COVID and argued increased office attendance would significantly affect his family's ability to function.
- FedEx maintained a hybrid model requiring office attendance and refused the request.

The **FWC** found:

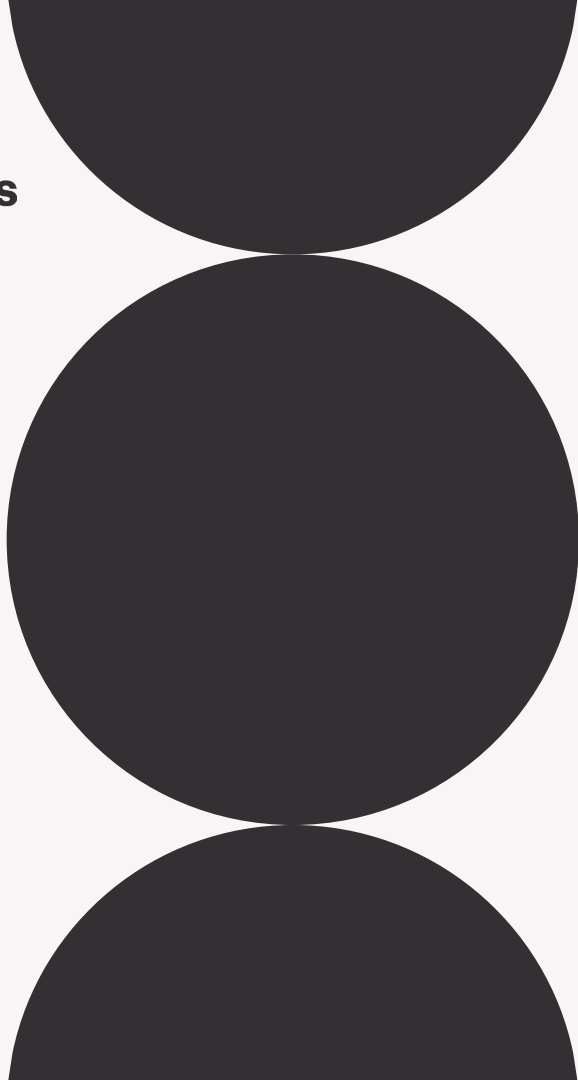
- FedEx's reasons focused on the benefits of office attendance, rather than identifying any actual detriment arising from the proposed arrangement.
- General statements about collaboration, culture and engagement were insufficient.
- The employee had not provided sufficient evidence explaining why his circumstances now required 100% WFH, when he had previously worked under a hybrid arrangement.
- Working entirely remotely raised legitimate concerns regarding workplace support and employee wellbeing.

Order (for an initial 3-month period)

- 3 days WFH.; 1 day in the office.

Key takeaways

1. WFH remains a right to request, not a right to work from home	• Employers can still require workplace attendance where supported by legitimate operational, safety or business reasons
2. Evidence matters	• Be able to identify and document the specific operational, safety or service impacts arising from the arrangement. • General references to culture, collaboration or office presence are unlikely to be sufficient on their own.
3. Process matters	• Consult with employees. • Genuinely consider requests and alternatives. • Clearly communicate the reasons for decisions.
4. Consider the broader legal framework	• WFH requests may engage Fair Work, WHS, anti-discrimination, award and enterprise agreement obligations.
5. Hybrid arrangements remain the middle ground	• A balanced arrangement will often be more defensible than insisting on either full-time attendance or full-time WFH.



**Colin
Biggers
& Paisley**

Questions

Presenters.



Matthew Giles

Partner | Colin Biggers & Paisley
Email: matthew.giles@cbp.com.au
Mobile: +61 422 119 794



Zoe Jeffrey

Solicitor | Colin Biggers & Paisley
Email: zoe.jeffrey@cbp.com.au
Mobile: +61 401 981 071

**Colin
Biggers
& Paisley**

Thank you.

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