Report Title:	Flexible Working (Work from Home) – Consultation feedback and Guidance finalisation		
Report No:	2024 - 0311		
Date:	6 December 2024		
To:	Hon Nicola Willis, Minister for the Public Service		
Action Sought:	Provide feedback on final Guidance	**Due Date**	Wednesday 11 December
Contact Person:	Paula Davis, Manager Workforce and Capability		
Contact No:	9(2)(a) privacy		
Encl:	Yes	**Priority:**	High
Security Level:	IN CONFIDENCE		

Purpose of Report

1. This report advises the outcome of consultation on the draft *Flexible Working (Work from Home) Guidance* and provides the final Guidance for your feedback.

2. You will shortly be receiving a briefing (2024 – 0312) on the results from the Public Service Working from Home Survey.

Consultation Feedback

3. We received 37 pieces of feedback in total on the draft Guidance from agencies, unions and other stakeholders.

4. The final draft Guidance has been amended to reflect the following areas of feedback:

   • Recognition of all forms of flexible working and their benefits

   • Advice on how agencies are to handle existing arrangements

   • Advice on agency policies needing to continue to ensure they reflect diversity and inclusion requirements under the Public Service Act 2020.

9(2)(h) legal privilege

9(2)(h) legal privilege

9(2)(h) legal privilege

Recommended Action

11.   We recommend that you:

      a.   **Consider** the attached updated Flexible Working (Work from Home) Guidance and provide officials with any feedback.

Agree/disagree.

9(2)(j) prejudice to negotiations

Hon Nicola Willis
Minister for the Public Service

Flexible Working (Work from Home) Guidance

Te Kawa Mataaho
Public Service Commission

Purpose

The purpose of this Guidance is to support agencies to align their flexible working (work from home) policies to Government's expectations to ensure performance.

This Guidance is issued under Section 95(a) of the Public Service Act 2020 by the Public Service Commissioner. It should be read in conjunction with the 2024 Government Workforce Policy Statement.

This Guidance replaces the Hybrid Working Guidance 2022 and the Flexible-By-Default Guidance 2020. Workplaces now have a better understanding of the benefits and risks of flexible working arrangements and have foundational policies and approaches in place. This Guidance clarifies that all flexible work arrangements must be agreed and managed to support a high-performance culture. Existing policies and approaches should be updated, where necessary, to align with this Guidance.

This Guidance focuses on working from home, but agencies may consider and agree other forms of flexible working, such as part-time hours and flexible start and finish times. 9(2)(g)(i) free and frank

This Guidance applies to Departments and Departmental Agencies, Interdepartmental Executive Boards and Interdepartmental Ventures. Crown Entities and non-Public Service departments are encouraged to consider this Guidance.

Aligning to Government Expectations

Government expectations

On 23 September 2024 the Government set out its expectations for the Public Service on working from home. The Government's expectations are:

1. **Working from home arrangements in the Public Service are not an entitlement and should be by explicit agreement between an employee and their employer.**

   Chief Executives and managers should ensure that where any arrangements are made, they are subject to consistent monitoring and oversight.

2. **Working from home arrangements should only be agreed to where they will not compromise the performance of employees, their teams or their agencies.**

   This requires agencies to adequately weigh the benefits of employees being physically present for work, the cumulative impact of widespread working from home arrangements, and to

consider performance in its widest sense: including potential impacts on learning and development, productivity, team culture and engagement.

3. **Agencies should actively monitor the prevalence and impact of working from home arrangements and be able to regularly report to the Public Service Commission about the number and nature of the agreements they have in place, including having a clear understanding of the impact these agreements will have on particular days of the week**.

What agencies need to do now

The Government expectations do not mean public servants cannot work from home or that public servants must work in the office on a set number of days each week. Nor do they automatically change existing agreed arrangements in place.

Alignment with this Guidance will look different for each agency, and this is expected and supported. At a minimum though, agencies should:

- Review existing flexible work and work from home policies to ensure they align with the Government's expectations and the agency's legal obligations[1]
- Ensure all individual work from home arrangements:
  - o Align with the agency's policies,
  - o Are expressly agreed with the employer, and
  - o Are recorded in accordance with the agency's policy.
- Ensure managers regularly review all work from home arrangements and assess their ongoing suitability and impact on the team's and organisation's performance in its widest sense (including impacts on learning and development, productivity, team culture and engagement).
- Give effect to the expectation of monitoring and oversight - both at an individual level (by managing to clear performance expectations as part of a high-performance culture) and at the agency level (by having visibility of all work from home arrangements).
- Be able to report on the number of employees regularly working from home and on what days of the week.
- Regularly report their work from home data to the Public Service Commission (i.e. twice yearly).

Additional considerations for Agencies

Consider whether activities are suited to working from home

When considering whether roles or activities can be performed from home, it might be helpful to consider:

---

[1] Public Service Act 2020 employment legislation (including but not limited to, the Employment Relations Act 2000 (Section 6AA flexible working), Health and Safety at Work Act 2015 and the Human Rights Act 1993 (reasonable accommodations).

- **Frequency:** Activities that are regularly repeated may need less in-person contact than activities that are infrequent

- **Novelty/ambiguity:** Activities or tasks that are new or ambiguous may need more in-person contact than work that is familiar and undertaken often

- **Individual/team experience:** Where the staff member or team is developing, they may need more face-to-face support than those who are fully proficient. The needs of the team at that time, and ongoing, should be considered.

- **Trust:** Activities that build trust and are important for relationships may need face-to-face contact.

- **Task interdependence:** The more that tasks require collaboration and the input of more than one staff member, the more face-to-face contact will be needed to complete the work efficiently and effectively.

- **Cumulative impact:** The cumulative impact of the number of people working remotely across a team and the whole agency may negatively impact on team culture, key stakeholder relationships, collaboration and development.

Set clear performance expectations and manage to them

Having a performance culture that supports people leaders to set and manage to expectations is critical. It requires additional consideration when putting in place flexible working arrangements. Managers get the best from teams when they make delivery and quality expectations clear and measure performance against these expectations. Team members, whether they work flexibly or not, do their best work when they manage their time, deliver to expectations and maintain good lines of communication with managers and colleagues. Managers should address performance issues in the same way for all employees, whatever flexible work arrangement has been agreed.

Be deliberate about ways of working

When working flexibly, it is especially important that managers, employees, and teams talk regularly about flexible arrangements, how they are working and how any challenges can be addressed.

When building good performance management practices, managers should:

- agree and record agreed norms of behaviour within their team. For example, maintaining oversight of team members' location, how and when they can be reached, how regular and urgent communication will be maintained, and how/when arrangements will be reviewed

- ensure all employees, regardless of location, share in unexpected and urgent work, as well as long-term challenging projects

- hold regular team check-ins to maintain good team relationships

- constantly communicate about work deliverables, quality standards and timelines.

Manage health and safety

Under the Health and Safety at Work Act 2015 employers are primarily responsible for their workers' health and safety, while they are at work. That means that when employees ask to work from home,

agencies must consider the risks their employees might be exposed to in that environment, the degree of harm those risks could cause, and how those risks can be mitigated. Examples of common risks of working from home include workstation setup, or isolation/loneliness.

Agencies should specifically consider the risks to the psychological health of hybrid workers and how this can be managed. Working physically alongside team members is an important way to stay connected. It helps social cohesion, inclusion, builds trust and helps create a common culture. Feelings of isolation can be harmful for mental health. Equally, hybrid working can support mental health by providing quiet space for concentrated individual work.

What is most important is that workers and employers are aware of the risks and have plans in place to manage risk and support wellbeing. When work is designed, organised, and managed well it will reduce the likelihood of harm, and will also enhance wellbeing.

Agencies can find more information about aspects of flexible working arrangements and mentally healthy work on these websites:

Staying mentally healthy when working from home | WorkSafe

Supporting workers to work from home.

Resources | Government Health and Safety Lead

Manage Protective Security Risks
Agencies must ensure that appropriate measures are in place to manage the protective security risks of workers/staff working from home.

Specific guidance to staff on IT security maybe required, as well as on records management. This should include transporting and sorting hard copies of information created in the office, whether hardcopy information may be created at home, and how this information will be stored, incorporated into records management systems, or archived/destroyed as appropriate and any security clearance requirements of employees.

For further information, including handling requirements for classified information, visit www.protectivesecurity.govt.nz

Active monitoring and reporting

Any flexible working arrangements need regular monitoring to ensure they continue to meet the needs of the team and the agency and that the impact on the team's and organisation's performance in its widest sense is known and managed.

From time to time the Public Service Commission may request flexible working data from departments and departmental agencies. The Commission may also collect information to understand agencies implementation of the guidance.

GENDER PAY principles

Aim
Working environments in the state sector are free from gender based inequalities. All employees are able to achieve their full potential regardless of their gender, and gender pay gaps are eliminated.

History
After the PSA filed a claim against the State Services Commissioner, the Gender Pay Principles Working Group was established. It was made up of unions, state sector agencies and the Commission, and through a collaborative process it agreed the principles set out here.

Approach
Inequities in the labour market are caused by deeply embedded views, values and practices. Change requires genuine engagement and sustainable solutions. These Principles are a living and practical set of guidelines for use by all state sector agencies. They stand alongside other initiatives to reduce and eventually eliminate these inequities. The principles of partnership, protection, and participation embodied in Te Tiriti O Waitangi will be advanced and applied in the workplace.

Application
These principles recognise the employment cycle begins before an employee takes up their job. It includes recruitment, remuneration, training and development, career progression, leave, flexible, and part time arrangements. It also includes periods in and out of the workforce. By addressing policies, decision-making and practice at each point, agencies can make a real difference.

Influence
While the focus of the Principles has been the core state sector, they are relevant to other sectors. The Working Group is confident the Principles have broader application.

1 FREEDOM FROM BIAS and DISCRIMINATION *Principle*

Employment and pay practices are free from the effects of conscious and unconscious bias and assumptions based on gender.

Issue statement
Bias and discrimination occurs at every point throughout the employment cycle. Conscious and unconscious bias impacts negatively on women's employment, pay and progression opportunities. These negative impacts are compounded when gender is combined with other factors.

This means
- Decision makers recognise and act to remove the impacts of conscious and unconscious bias

- Employees, unions and agencies actively raise awareness amongst all staff of gender stereotyping and conscious and unconscious bias

- Employees, unions and agencies jointly evaluate policies and practices to identify where and when gender bias and discrimination can occur

- Agencies take action to prevent gender bias and discrimination before it occurs

- Employees, unions and agencies pay particular attention to the compounding impacts of gender combined with other factors

- Agencies value gender diversity and prioritise active protection from discrimination

- Leaders and decision makers develop strong relationships with Māori women to reduce opportunities for bias and discrimination to occur.

2 TRANSPARENCY and ACCESSIBILITY *Principle*

Employment and pay practices, pay rates and systems are transparent. Information is readily accessible and understandable.

Issue statement
Transparency and accessibility is essential to the sustainable elimination of gender pay gaps. Maintaining transparent employment and pay practices is likely to prevent gender pay gaps from occurring and attract and retain a diverse and committed workforce.

This means
- Pay rates and systems are transparent and easily accessible

- Gender pay gap information is audited and published annually

- Gender pay gap information is disaggregated to understand the compounding impacts when gender is combined with other factors

- Agencies publish plans for addressing gender pay gaps, ensuring that they are readily available to all employees and their unions

- Where collective agreements are negotiated, they include pay rates and pay systems that are transparent and accessible to all.

- Agencies identify where insecure work arrangements contribute to workplace gender inequalities.

3 RELATIONSHIP BETWEEN PAID and UNPAID WORK *Principle*

Employment and pay practices recognise and account for different patterns of labour force participation by workers who are undertaking unpaid and/or caring work.

Issue statement
Women and men have different patterns of participation in the paid workforce, primarily because women spend a greater proportion of their time on unpaid and/or caring work. As a result women are disadvantaged in areas such as pay, progression, security of employment and retirement income. When women's skills and experience are not recognised, they are underutilised and undervalued in the workforce.

This means
- Employees, unions and agencies recognise that women currently undertake a greater share of unpaid and/or caring work in society which has negative impacts in the workplace

- Agencies take active steps to ensure that time out of the workforce for unpaid and/or caring work does not result in disadvantage in pay or barriers to progression

- Decision makers scope jobs and allocate work in a way that positively recognises different patterns of participation

- Skills and experience gained through unpaid and/or caring work are utilised and rewarded

- Agencies normalise flexible and part time working arrangements for all positions and employees without adversely affecting security of employment

- Employees, unions and agencies create workplace environments that support and encourage men's participation in unpaid and/or caring work.

4

SUSTAINABILITY
Principle

Interventions and solutions are collectively developed and agreed, sustainable and enduring.

Issue statement

Remedying gender inequalities and closing gender pay gaps requires continuous organisational commitment and collective engagement to achieve sustainable systemic change. Integration of the principles of the Te Tiriti o Waitangi and addressing the needs and perspectives of Māori women is essential.

This means

- Senior leaders make an ongoing commitment to eliminate gender inequalities and allocate budget and resources accordingly

- Employees, unions and agencies jointly set explicit goals and timeframes to eliminate gender pay gaps

- Agencies collect, analyse and monitor data to identify all the factors that contribute to their gender pay gaps

- Interventions and solutions are informed by data and best practice

- Employees, unions and agencies jointly monitor, evaluate and adapt plans to ensure equitable outcomes are sustained

- The application of the Te Tiriti o Waitangi and its principles is adapted to new and changing circumstances

- Agencies undertake specific planning and resourcing to achieve equitable outcomes for Māori women

- Collective and/or individual agreements are key mechanisms for ensuring that changes are sustained

- Agencies consider how these Principles apply to all employment arrangements, including contractors.

5

PARTICIPATION and
ENGAGEMENT *Principle*

Employees, their unions and agencies work collaboratively to achieve mutually agreed outcomes.

Issue statement

Employees, their unions and agencies have a shared interest in achieving sustainable outcomes and cultural change. Effective participation and engagement in a high trust environment promotes organisational performance. Inclusive processes support social, cultural, environmental and spiritual wellbeing. Collective ownership of solutions is achieved through effective communications and genuine input.

This means

- Genuine input is sought from the design phase and throughout the process

- Employees, unions and agencies jointly develop, implement, monitor and evaluate plans to address gender pay gaps

- Employees, unions and agencies use collaborative processes, including collective bargaining, to agree and implement plans

- Employees can see their experiences and voices reflected in decision-making

- Agencies actively engage with women in a way that is inclusive and recognises their diversity and different perspectives

- Leaders and decision makers develop strong relationships with Māori women to ensure their needs and perspectives are addressed

- Where collective agreements are negotiated they include agreed mechanisms to implement these Principles.

When agencies, employees, and their unions work together and feel shared ownership of actions and progress, they achieve the best and most sustainable outcomes.

The Gender Pay Principles Working Group is developing guidance that agencies and unions can use to give effect to the Principles. This work will continue and be published so employers and employees can use it.

You can find an online version of the Gender Pay Principles and further information here:

www.women.govt.nz/genderpayprinciples

GENDER PAY
principles

STATE SERVICES COMMISSION
Te Komihana O Ngā Tari Kāwanatanga

ministry for
Women
Minitatanga mō ngā Wāhine

PSA

CTU
NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

SUFFRAGE
125
Whakatū
Wāhine

NEW ZEALAND