DCA submission to inquiry into Fair Work Amendment (Right to Work from Home) Bill 2025

To the Education and Employment Legislation Committee,

Thank you for the opportunity to provide feedback on this inquiry.

As the nation's leading independent peak body for diversity and inclusion, Diversity Council Australia (DCA) is a member-based, not-for-profit, with a strong network of over 1,300 members, including many of Australia's largest employers. For 40 years DCA has worked to advance more equitable workplaces, supporting a stronger economy and fairer society. DCA's evidence-led approach is centred on lived experience, and our research consistently shows that inclusive organisations are more innovative, productive, and resilient in changing environments.

Founded as a joint initiative of the Business Council of Australia and what would become the Australian Chamber of Commerce and Industry, DCA's original mission was to support equal opportunity for women through industry-led programs. Our founding members included ANZ, AMP, BHP, Coles, IBM, Myer, Rio Tinto, and Westpac. Today, we champion a spectrum of workforce diversity and inclusion dimensions and hold strong convening power, engaging directly with CEOs and senior leaders across a range of sectors from ASX-listed companies to not-for-profits.

Through research, practical tools, events, advocacy, education and training, we provide expert guidance to support employers, leaders and policymakers, and advance our charitable purpose to foster inclusive workplaces for the benefit of individuals, organisations and society.

Yours sincerely,

Catherine Hunter
CEO, Diversity Council Australia

A note on language

DCA recognises that a diversity of terms is used to describe people's lived experience. We recognise and respect individuals' right to identify with terms that they feel most comfortable with. We also recognise the limitations of binary language. However, sometimes binary categories have very real effects on peoples' experiences and may be necessary to convey the gendered nature and dynamics of our society.

DCA uses person-first language by using the term 'people with disability' but we recognise that many people with disability prefer identity-first language (i.e. a disabled person). We also acknowledge the diversity in disabilities and the impact this has on the experiences of people. Furthermore, some specific communities such as Autistic and Deaf communities may not define themselves as disabled at all.

DCA recognises that language is socially constructed and constantly evolving and our intention is always to be inclusive and to be open to change.

A note on intersectionality

DCA recommends an intersectional approach when developing and implementing policy and programs, recognising that individuals may experience overlapping and compounding forms of marginalisation based on their social identities. By applying an intersectional lens across our work, we help employers identify and address the structural barriers that affect participation and progression for people from marginalised groups.

Introduction

DCA supports the intent of the Bill to strengthen access to working from home as a legitimate and important form of flexible work.

DCA has long been an advocate for providing workers with the flexibility they needed to manage work and other commitments, whether it be flexibility in where, when and how they do their job.

The benefits of flexible working for individuals, organisations, and the economy are well-established, yet flexibility is still not mainstreamed in many Australian workplaces. In the face of globalisation, technology advancements and demographic shifts, embedding flexibility, including working from home, is critical to the future of work.

The state of flexible work in Australia

DCA's Inclusion@Work Index surveys a nationally representative sample of 3,000 workers to map and track the state of inclusion in the Australian workforce every two years. Data from the 2023-2024 Index illustrates that teams that include employees using flexible working options are just as innovative, hard-working, and effective as those not using them.

Despite this, stigma associated with accessing flexible options remain. For example, workers using flexible working options continue to experience more exclusion than non-flex workers, with over 1 in 4 (29%) reporting they experienced discrimination and/or harassment at work in 2023, significantly higher than workers not accessing flexible options (20%).

Our research also found that the majority of workers accessing flex are from marginalised backgrounds, suggesting it is disproportionately important for these groups. Our latest Inclusion@Work Index found this is particularly the case for:

- **workers with caring responsibilities:** 3 in 4 (74%) workers with caring responsibilities reported using flexible working options. This is significantly higher than the 58% of workers without caring responsibilities using flex
- **women workers:** 72% of women use flexible work options, compared to 57% of men workers, contributing to a 15% gender flex gap
- **workers with disability:** 7 in 10 (71%) workers with disability reported using flexible work options, compared to 63% of those without disability
- **workers with a non-Christian religion:** 71% of workers with a non-Christian religion reported using flexible work options, compared to 64% of both workers with a Christian religion and those with no religion
- **Aboriginal and/or Torres Strait Islander workers:** 72% of Aboriginal and/or Torres Strait Islander workers reported use of flexible work options, compared to 64% of non-Indigenous workers.

Updated national data from DCA's Inclusion@Work Index 2025–2026 will be released on 26 February 2026. DCA will provide further analysis following the release to support evidence-based policy and workplace practice in this area.

The future of work demands flexibility in the way individuals, teams, and organisations work. If we are to fully engage Australia's diverse talent pool, we must encourage workplace conditions that are inclusive for all, and where flexibility is a standard, not an exception.

The case for working from home

There is a large body of evidence that demonstrates the benefits of working from home for both organisations and employees.

DCA's findings

Our 2023-2024 Inclusion@Work Index shows that workers who had access to the flexibility they needed to manage work and other commitments (which includes working from home) are:

- 3 times more likely to be in **innovative teams**
- 3 times more likely to be in teams **working effectively together**
- 3 times more likely to be **very satisfied with their job**
- twice as likely to be in teams that **provide excellent customer/client service**.

Productivity

- In 2025, the Productivity Commission released a research paper concluding that hybrid work arrangements tend to be beneficial to productivity, or at least, is not detrimental to productivity
- A recent report from the Australian HR Institute found that 45% of employers found hybrid working had a positive effect on productivity levels, compared with just 11% who felt it had a negative impact
- Further research shows that employees who worked from home one or more days a week had nearly 10% more autonomy, meaning they could be up to 16.8% more productive
- Despite this, research commissioned by the Fair Work Commission in May 2025 showed productivity concerns were a key reason employers provided when declining work from home requests.

Participation

- The Productivity Commission's report found that allowing workers to work from home reduced geographical barriers to employment, which could improve job fit and productivity

- It also found evidence that working from home improved participation for carers, workers with disability, and other workers who might find it harder to come into the office five days a week
- Recent research has shown that flexible working practices are important for neurodivergent employees, who are estimated to make up 12% of the Australian workforce.

Economic benefits

- Research conducted by the University of Queensland found the economic benefits of allowing working from home outweigh the costs by a factor of seven, with the total annual cost for those living in Brisbane amounting to $557.5 million, while the total benefits reached $4.1 billion.

Wellbeing

- Research shows working from home also benefits work-life balance, with many using the time saved on commuting for exercise, recreation and community engagement
- Research from Australian National University and University of Newcastle found that working from home one or more days a week could reduce worker burnout by 10.6%
- It also found workers who work from home see an increase in physical, technological and psychological infrastructure support.

Sustainability

- A literature review on travel behaviour found working from home reduces traffic congestion and pollution, saves commuting time, boosts regional growth and helps employers cut costs
- Findings showed that the increase in working from home during the COVID-19 pandemic saw a reduction in commuting trips which positively impacted air quality and reduced greenhouse gas emissions.

Retention and attraction

- The ability to work from home is seen as highly desirable among employees and job applicants. Researchers from the University of Melbourne and Western Sydney University recently found that workers overwhelmingly expect having the flexibility to work from home
- A randomized control trial from 2024 found that hybrid working improved job satisfaction and reduced quit rates by one-third
- The Australian HR Institute also found that 44% of employers believe it leads to improved retention rates
- Roy Morgan's 2025 national dataset shows **46% of Australians** work from home at least some of the time, with even higher uptake in major cities (e.g., 55% in Sydney, 52% in Melbourne). This broad adoption removes geographic barriers, giving employers access to talent across Australia, including regional and remote areas where participation has historically been lower.

Risks of narrow or poorly implemented legislation

The Bill represents an important step forward by placing a positive obligation on employers to genuinely consider requests to work from home and assess whether adjustments could enable work to be performed remotely. This moves beyond a purely discretionary approach and reinforces working from home as a legitimate form of flexible work.

However, it is important to note that the Bill does not enshrine the right to work from home where roles can reasonably be performed remotely. Instead, it strengthens employees' ability to have requests

properly considered based on the nature of their role's inherent requirements. While this is a meaningful improvement, relying on a request-based framework carries inherent limitations and risks.

When flexibility depends on individual requests rather than role design, the burden remains on workers to justify their need for working from home. In practice, workers may still face refusals, delays, or withdrawal of arrangements, even where the role itself can reasonably be performed remotely.

Evidence suggests that request-based systems can produce inconsistent and inequitable outcomes. The Fair Work Commission's report on access to work from home arrangements found a quarter of employers admitted to denying at least 25% or more of requests, often due to unsubstantiated concerns about productivity or efficiency. Employers also reported that requests are approved based on employees' personal circumstances, such as caring responsibilities, pregnancy, personal illness, disability, or family and domestic violence.

DCA research has found that for flexibility to be implemented effectively, it must be defined broadly. That means allowing flexible conditions for everyone. Restricting flexibility to a narrow group of workers risks embedding stigma, creating perceptions that flexible work is a "special concession" rather than a normal way of working. By making flexible work universally accessible, workplaces can remove this stigma, ensure fairer outcomes, and foster cultures of trust and inclusion.

While not all work can be performed remotely, legislation that encourages organisations to move away from permission-based models and toward embedding flexibility into role design can reduce arbitrary refusal, increase consistency, and improve trust.

The Bill provides an opportunity to strengthen substantive access to flexible working conditions, while still allowing employers to refuse arrangements on reasonable operational grounds. Doing so would better safeguard essential workplace adjustments, reduce stigma, and support inclusive participation in the workforce, delivering benefits not only for individuals who rely on flexibility, but for organisational performance and productivity across the Australian economy.

Recommendations

Move beyond a request-based framework

A system that relies primarily on individual requests to access working from home places the burden on employees to justify flexible arrangements. This approach can entrench inequity, particularly for workers who rely on working from home as an essential adjustment.

Flexibility is most effective when it is embedded into role design and workforce planning, rather than treated as an exception granted on a case-by-case basis. Where working from home is framed as something employees must request and justify, access is more likely to be uneven, withdrawn, or influenced by subjective decision-making.

Policy Recommendation 1:

The legislation should be updated to introduce a presumption in favour of flexible working where the role can be performed flexibly without serious operational harm, and the employee meets performance and conduct expectations. The test becomes: "Why can't this role be done flexibly?" rather than "Why should we allow it to be done flexibly?".

Policy Recommendation 2:

Strengthen section 65A by tightening the definition of "reasonable business grounds" to require that the employer may only refuse a request for flexible working after:
1) they are able to demonstrate impact on productivity, safety, service delivery, or costs, and
(2) they have considered other alternative flexible options (e.g. hybrid, adjusted hours).

Policy Recommendation 3:

Include a new section that requires that modern awards and enterprise agreements include clauses in relation to flexible work arrangements including hybrid, remote work and work from home arrangements.

Career development, promotion, and remuneration

Research from CEDA has found that employees who work from home are paid 5.8% less on average than those who do not. Further research from Qualtrics showed that 46% of workers in Australia believe in-office workers have a career advantage over those working from home. Concerningly, 57% of people working in management and 60% in director roles also agreed with this sentiment.

Remote workers risk being excluded from informal learning, mentoring, and networking opportunities that occur "naturally" in physical workplaces. These organic channels of knowledge sharing and relationship-building are critical for career development, progression, sponsorship, and inclusion. Without deliberate interventions, remote employees may miss out on mentoring, learning opportunities and professional networks, which can limit progression opportunities.

As mentioned in the introduction, DCA's research has found that the majority of workers accessing flex working options are from marginalised backgrounds. If this legislation is not implemented carefully, it has the potential to further entrench rather than reduce inequity, creating additional barriers for employees who already experience significant barriers to pay equity, development, and progression opportunities.

Policy Recommendation 4:

Sections 153(1) and 351(1) of the Fair Work Act 2009 should be amended to include working arrangements as a protected attribute. This would ensure employees are not subjected to discrimination or adverse action because they work remotely, from home, or under other flexible arrangements.
Embedding working arrangements as a protected attribute would provide clear legal safeguards across key employment outcomes, including pay, progression, access to training, and professional development.

Workload management and wellbeing

Studies show that employees working from home tend to work longer hours, blurring boundaries between work and personal life. CEDA found that people who work fully remote work nearly 20% more hours per week than those who don't, and people who work from home half of the time work just over 9% more hours per week. The ACTU also found that women are more likely to experience mental health issues when working from home than men. This is likely because women are disproportionately responsible for household management and childcare, even when they are working full time. This overlap can further blur the boundaries between work and personal life. Without protections, this can lead to burnout and negatively affect wellbeing.

Policy Recommendation 5:

The legislation should be supported by guidance or requirements for employers to provide training for managers on leading flexible teams, setting realistic expectations, and supporting employee wellbeing. This includes building on existing provisions in the Fair Work Act 2009, such as the Right to Disconnect, which already recognises the importance of reasonable work boundaries and can be leveraged to support healthy flexible work practices.

To bolster these protections, employers should be supported with guidance materials to implement the following:

- **Manager training and accountability:** training for managers on leading remote and hybrid teams, including how to set realistic workloads, provide psychosocial support and recognise signs of burnout.
- **Structured work boundaries:** introducing policies that set clear expectations around working hours, availability, and response times.
- **Wellbeing monitoring and support:** regular wellbeing surveys and check-ins, access to mental health resources, and initiatives that promote work-life balance.
- **Flexible workload allocation:** adjust workloads and expectations based on the realities of individual workers, preventing the accumulation of excessive tasks that may disproportionately impact employees with caregiving responsibilities or other commitments outside work.

Workplace inclusion and equity

As mentioned above, flexible work is disproportionately accessed by marginalised groups such as women, carers, and people with disability. For many in these groups, flexibility is not simply a preference but a necessary adjustment that enables them to participate fully in the workforce. Without clear protections, these workers risk losing access to critical arrangements that support their ongoing employment and career progression.

At the same time, stigma and bias around flexibility can result in these employees being overlooked for development opportunities or promotions, reinforcing existing inequities.

Policy Recommendation 6:

The legislation should explicitly recognise the role of flexible work in advancing workplace equity and mandate that access is assessed consistently and fairly across all employee groups. DCA recommends ensuring legislation centres the lived experiences of marginalised workers who commonly access flexible work options by consulting with external groups that can offer lived experience and subject matter expertise. This ensures the voices of marginalised workers are embedded in decision making, and that flexible work arrangements are designed to meet real workforce needs rather than relying on assumptions.

For more information, see **Centring Marginalised Voices at Work**.

Regional and economic participation

Flexible work, including work from home, enables greater workforce participation for people in regional and rural Australia, and for those with limited transport access. These arrangements bridge geographical gaps, offering employment opportunities to communities that might otherwise face barriers to traditional office-based roles. Research commissioned by Regional Development Australia found that hybrid work arrangements can help address regional workforce shortages by tapping into a broader talent pool.

Policy Recommendation 7:

The legislation should recognise flexible work as an economic enabler, particularly for regional Australia, and encourage employers to facilitate it wherever reasonably possible. This could involve offering training programs to enhance digital literacy and ensuring that infrastructure supports remote work capabilities.

Cultural change and stigma reduction

When flexible work arrangements are granted only to certain groups, it risks being stigmatised as a concession rather than a normal way of working. This selective approach can reinforce stereotypes and perpetuate stigma, particularly when flexibility is associated with caregiving roles or other personal responsibilities. Such perceptions can undermine the legitimacy of flexible work and discourage employees from requesting arrangements that could enhance their work-life balance and productivity.

The perception of flexible work as a concession can be detrimental to both employees and organisations. It can lead to reduced uptake of flexible arrangements, limiting the potential benefits such as increased job satisfaction, reduced turnover, and enhanced productivity. Addressing flexibility stigma requires a cultural shift within organisations, promoting the idea that flexible work is a legitimate and effective way of working for all employees, not jus

t those with specific personal circumstances.

Policy Recommendation 8: Promote cultural change to support WFH

To provide support for the implementation of the new provisions, the Fair Work Commission should provide guidance materials for employers to embed cultural change that removes stigma from those who rely on flexibility for equity reasons. This could involve:

- **Normalising flexible work:** Actively encourage employers to make working from home arrangements standard practice across all roles to reduce the perception that such arrangements are special privileges.
- **Implementing inclusive policies:** Encouraging employers to develop and communicate clear policies that support flexible work for all employees, ensuring that these policies are applied consistently and equitably across the organisation.
- **Providing training and resources:** Advising organisations to offer training for managers and employees on the benefits of flexible work, how to implement it effectively, and how to overcome potential challenges.
- **Monitoring and evaluation:** Encouraging employers to regularly assess the impact of flexible work arrangements on employee performance, satisfaction, and organisational outcomes. This data can inform continuous improvement and demonstrate the value of flexible work to all stakeholders.

For more information, see **Getting started with flexibility**.

Please feel free to contact myself or Dr Rose D'Almada-Remedios, Head of Research at rose@dca.org.au, should you require any further information about this matter.

Yours sincerely,

Catherine Hunter
CEO, Diversity Council Australia

Relevant DCA research and resources

- DCA's flexibility resource page
- The Inclusion@Work Index hub
- Future-Flex: Mainstreaming Flexibility By Team Design
- Get Flexible!
- Myth Busting Flexibility
- Intersectionality at work
- Centring Marginalised Voices at Work.

Additional research and resource recommendations

- Flexible working and psychosocial safety, SafeWork
- When it comes to wellbeing, what are the pros and cons of working in an office vs from home? The Conversation
- Productivity before and after COVID-19, The Productivity Commission
- Clerks – Working from Home Surveys, The Fair Work Commission
- ACTU Submission –Working from Home Term, ACTU
- Working from home is saving Australians time and money, CEDA
- Hybrid and Flexible Working Practices in Australian Workplaces in 2025, AHRI
- Working from home, ACTU
- Hybrid Work Opportunities in Regional Victoria, Swinburne University of Technology.