

Parliament of Victoria

‘Simple change’ or ‘overreach’: legislating for working from home

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Research Note

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Executive Summary

The Victorian Government has committed to legislating a right to work from home by September 2026. The concept of working from home (WFH) has been around for many years, but the onset of the COVID-19 pandemic in 2020 forced a dramatic change in workplaces across Victoria and globally.

Health mandates necessitated a pivot to remote work, prompting a sudden surge in the numbers of people working from home as well as technological, cultural and geographical shifts in behaviour. As a result, WFH was normalised in many industries that had not traditionally incorporated the practice into their workplace conditions. Numbers have remained high, with workplaces acknowledging a range of benefits that WFH can offer as a flexible working arrangement.

While WFH is now widely implemented by agreement between employers and employees, the proposal to legislate a WFH right comes amid efforts from some employers to wind back WFH entitlements. This has exposed a divide in opinion between unions and business as to whether a legislated right to WFH is necessary or helpful.

This paper outlines a brief history of WFH as a concept from the 1970s onwards, including the enduring impact of the pandemic on WFH uptake in Victoria. The paper then explores Australia's current laws regarding flexible working conditions, as well as ongoing deliberations of the Fair Work Commission in this space.

In looking at legislative approaches to WFH, the paper explores what we know about the Victorian Government's proposal as well as the parliamentary response, while examining how some jurisdictions in Europe have approached the issue of WFH and flexible work more broadly. There are also a range of issues to consider about the merits of WFH, with the paper detailing discussions on the employer-employee divide and impacts on certain cohorts such as women and people with a disability, as well as commuting and surveillance considerations.

Introduction

The concept of working from home (WFH) has been around for many years, but the onset of the COVID-19 pandemic in 2020 forced a dramatic change in workplaces across Victoria and globally. Health mandates, such as Victoria’s state of emergency, required people to work from home where possible. Many industries were left to troubleshoot—in real time—a pivot from the office to remote working. This proved a big shift in many ways, technological and cultural, not to mention geographical. While the conditions of the pandemic posed a number of obvious health challenges, it also normalised WFH where it had previously struggled to get traction in workplaces.

While WFH numbers have dipped post-pandemic, they remain high, despite some disagreement between employers and employees over the value or best model of WFH and whether employees should return to the office. A Committee for Economic Development of Australia (CEDA) survey of Australian businesses in 2025 found that only four out of the 313 Victorian employers surveyed did not allow WFH in some way.¹

Recently the Victorian Government established a consultation process into how a right to WFH might be enshrined in legislation, and committed to legislating a right to WFH by September 2026. This paper explores the context surrounding this move, providing a brief history of WFH—not just its proliferation during the pandemic, but also the introduction of the concept in 1970s America and subsequently in Australia. It then details what we know of the government’s proposal so far, the parliamentary response and current legislated WFH provisions.

The paper also examines some of the key issues surrounding WFH, including the employer-employee divide in opinion, impacts on certain cohorts such as women and people with disability, as well as commuting and surveillance discussions. It then concludes with a summary of how WFH is legislated for in other jurisdictions, particularly in Europe.

¹ Committee for Economic Development of Australia (2025) *CEDA submission on Victoria’s working from home legislation*, media release.

1 | From the office to home

As of August 2025, over a third of all Australian workers—36.2 per cent—worked from home at least some of the time.² This was down from a high of 53 per cent in April 2020, the early days of two COVID-19-interrupted years.³ While both of these figures outstrip the number of people who worked from home before the pandemic, the push for WFH as part of a broader introduction of flexible working conditions has been brewing for decades.

The idea of WFH has always been self-evident in some environments—such as farm owners, self-employed people or home-based small businesses—while it is also generally assumed not to be achievable in others—such as emergency services, tradespeople, retail workers and a range of front-end health services. The discussion of WFH as a flexible working arrangement and its widespread increase over recent years is therefore chiefly concerned with those industries that are traditionally office-based, along with certain occupations, such as leadership, managerial, clerical and administrative roles.

The idea of taking work out of the office to an alternate space, or 'telecommuting', gained prominence in the early 1970s in the United States. In 1973, Jack Nilles, a former NASA engineer, started researching a cost-benefit analysis of reducing commute times by allowing workers to telecommute from satellite offices on certain days, saving them time and money spent travelling to their centralised city workplaces.⁴ His book *The Telecommunications-Transportation Tradeoff* was also undertaken in the wake of the 1970 *Clean Air Act* (US), which recognised the rising environmental impacts of motor vehicles.⁵

The release of the book also coincided with the 1973–74 oil restrictions imposed by parts of the Organisation of Petroleum Exporting Countries (OPEC) on the US and other countries supportive of Israel in the 1973 Arab-Israeli war.⁶ This precipitated a national energy crisis in the US, where oil prices quadrupled, heralding the start of a sustained period of oil price instability that continues today and spiking interest in ways to keep costs down.⁷

While the internet and home computing were still in an early stage of development, the satellite office concept was based on similar reasoning to today's WFH proposals. A better work-life balance meant workers would be able to spend more time in their neighbourhood, with family and doing recreational activities, spend less money on fuel at a time of rising costs, boost productivity through reduced commuting-linked frustration and reduce air pollution from unnecessary travel.⁸ The ability for technology to bridge the capability gap between office work and remote work was not a concern for Nilles, who assumed that would happen with time. He argued the major limiting factor to telecommuting take-up would be the need for 'organizational—and management—cultural changes'.⁹

By 1983, reports were reaching Australia that the WFH workforce in the US was on the rise, supported by Republican lawmakers as a way of cutting labour costs while also citing it 'as a way to strengthen the nuclear family', allowing women to work from home and supplement their partner's income while caring for their children.¹⁰ Developments in home computing in Australia were branded as the 'sunrise industries' and supported by the Hawke government through tax concessions and grants, citing positive impacts on 'work, working hours, skill levels and increased leisure time'.¹¹ However, reporting on these developments also saw potential for employers to exploit women, curtail trade unions and cut employee

² S. Williamson & R. May (2024) 'Explainer: Is there a right to work from home?', Australian Human Rights Institute website.

³ Australian Bureau of Statistics (2025) *Working arrangements, August 2025*, ABS.

⁴ V. Gan (2015) 'The Invention of Telecommuting', *Bloomberg*, 2 December.

⁵ *ibid.*

⁶ *ibid.*; G. Hutchens (2026) 'The war is stoking stagflation fears. Here's what it could mean for Australia's economy', *ABC News*, 22 March.

⁷ Hutchens (2026) *op. cit.*

⁸ Gan (2015) *op. cit.*

⁹ *ibid.*

¹⁰ J. Inglis (1983) 'A new era of exploitation? Women out-workers in the computer industry', *Tribune*, 19 October, p. 13.

¹¹ *ibid.*

benefits: 'Enthusiasm for computers (or perhaps fatal resignation) must be tempered with an awareness of the areas of potential exploitation, especially of women', wrote one critic.¹²

By 1992, with personal computers becoming more developed, views towards telecommuting mellowed. That year it was the subject of a national conference at which the Australian and Overseas Telecommunications Corporation (in 1993 renamed as Telstra) spruiked WFH as 'a low-cost work option' at a time the range of technologies being rolled out included 'telecommunications systems, personal computers, printers, facsimiles, voice mail, electronic mail, cellular phones, photocopiers and modems'.¹³

Throughout the 1990s, home computing became ubiquitous and the number of devices in each home multiplied in shape and function. They would continue to rise into the 2000s, but WFH did not catch on. The workforce was, however, changing. In 2005, the Victorian State Services Authority released a report titled *Making flexible work a success: a guide to promoting work/life balance in the Victorian public sector*. It sought to accommodate an aging workforce that also included more women, fuelling calls for more flexible working conditions.

The 2005 report argued that WFH, or telecommuting, was just one option among an array of flexible working conditions, such as:

- paid leave provisions (special leave, maternity and paternity leave, bereavement leave etc.);
- flexible working hours arrangements;
- childcare services and support (childcare provision, school holiday programs, breastfeeding facilities and parenting seminars); and
- other support measures such as counselling and referral services and information and training resources.¹⁴

In 2009, the *Fair Work Act 2009* enacted a new national workplace relations framework that included provisions for 'Requests for flexible working conditions', which would notionally include 'changes in location of work'.¹⁵ See the 'Current flexible working protections' section of this paper for more detail.

Telecommuting was also reviewed by the Victorian Parliament's Rural and Regional Committee in 2014. The committee found that the benefits of telecommuting were four-fold:

- operational cost savings and productivity gains for employers;
- work-life balance and commuting time reduction for employees;
- generally, less traffic congestion but higher economic growth and workforce participation; and
- opportunities for population growth and skills expansion in rural and regional areas.¹⁶

These, however, had comparatively little impact before the events of 2020 and 2021.

¹² *ibid.*

¹³ (1992) 'Telecommuting: new work concept', *The Canberra Times*, 13 April, p. 13, accessed via National Library of Australia Trove archive.

¹⁴ State Services Authority (2005) *Making Flexible Work a Success: A Guide to Promoting Work/Life Balance in the Victorian Public Sector*, Melbourne, Victorian Government, p. 1.

¹⁵ *Fair Work Act 2009* (Act as made), s 65.

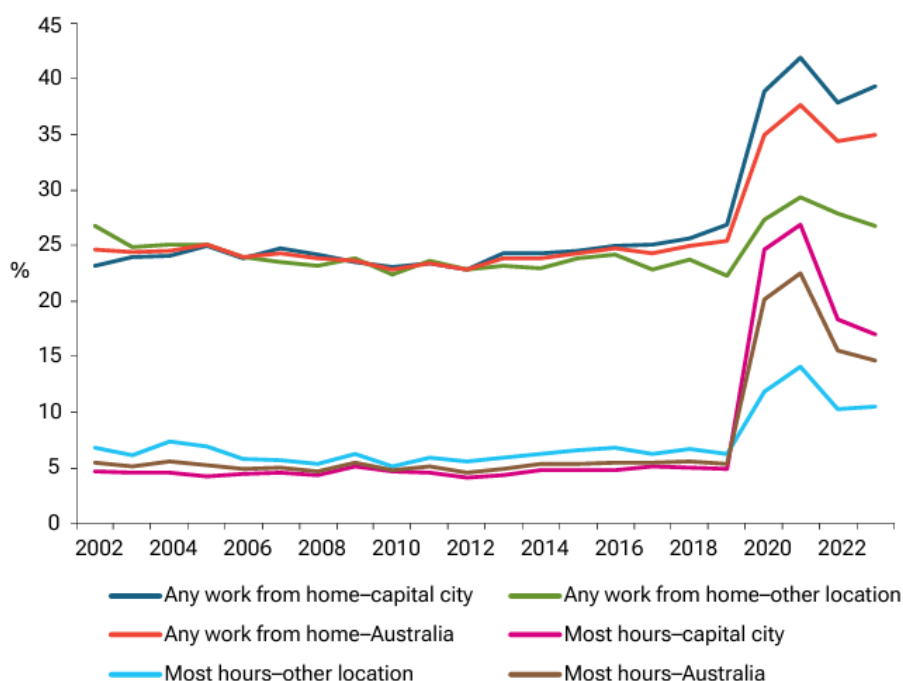
¹⁶ Rural and Regional Committee (2014) *Final Report: Inquiry into the Opportunities for People to Use Telecommuting and E-Business to Work Remotely in Rural and Regional Victoria*, February, Melbourne, The Committee, p. xv

2 | COVID-19 and beyond

The COVID-19 pandemic saw a rapid acceleration in the uptake of flexible working options in Victoria, not out of convenience but out of necessity. The highly contagious coronavirus prompted the Victorian Government to issue a series of health orders requiring, where possible, employees to work from home.¹⁷

Prior to the pandemic there was a stable rate of WFH from at least 2002 to 2020—around 5 per cent of Australian workers worked from home most of the time, along with around 25 per cent working from home some of the time (see Figure 1).¹⁸ These figures spiked rapidly during the pandemic before dipping again afterwards—but not back to pre-pandemic levels. For instance, the proportion of Australian workers who did any work from home initially increased to around 37 per cent and has since stayed around 35 per cent, while the number in 2023 for capital cities was closer to 40 per cent.¹⁹

Figure 1: Percentage of Australian workers working from home either some or most of the time, and how this has changed since 2002. Note pandemic health restrictions and WFH mandates were in place throughout much of 2020 and 2021.²⁰



Data source: HILDA Survey. Analysis and graphic: Laß et al. (2025)

An Australian National University study of hours worked from home before (2017–19), during (2020–21) and after (2022–24) the pandemic found that the WFH habits developed during the pandemic changed the way WFH was used as a flexible working option in the years after the pandemic ended.²¹ Before the pandemic, most people who worked from home only did so for a minimal percentage of hours worked. Figure 2 shows that during the pandemic, this shifted to people working from home all of the time; and while fewer people continued to work from home all of the time following the pandemic, they used that experience to find a range of hybrid solutions—for example, working from home one, two or three days a week.

¹⁷ D. Andrews, Premier (2020) *Statement from the Premier*, media release, 25 March.

¹⁸ I. Laß et al. (2025) *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 23*, Melbourne, Melbourne Institute of Applied Economic and Social Research, The University of Melbourne, p. 99.

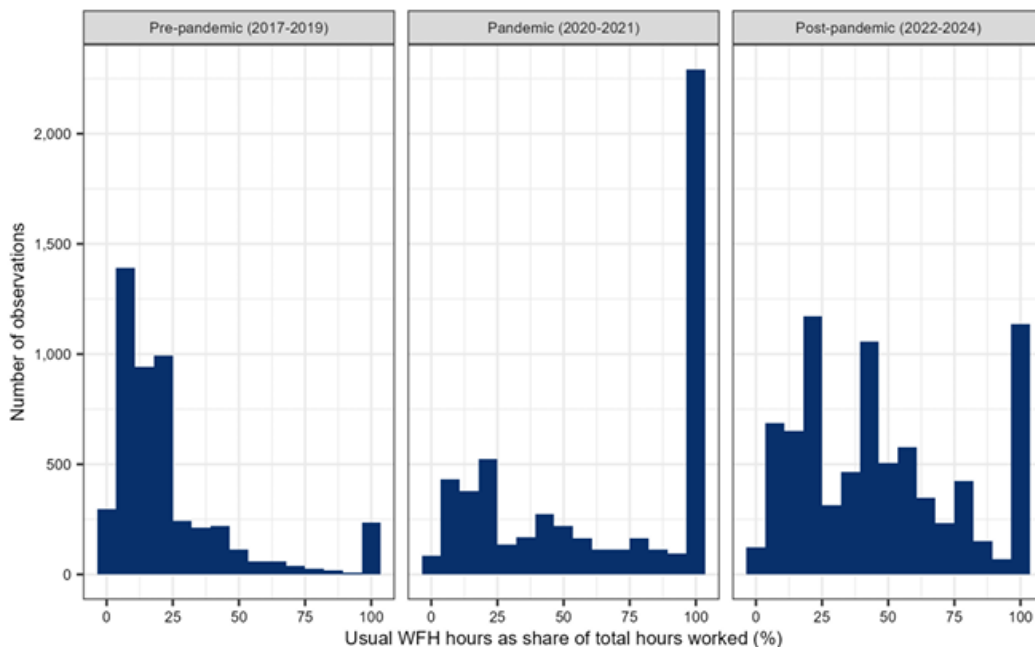
¹⁹ *ibid.*, p. 99.

²⁰ *ibid.*, p. 99.

²¹ A. Mollross (2026) *Who still works from home? The changing traits of remote workers*, March, Canberra, Tax and Transfer Policy Institute, ANU.

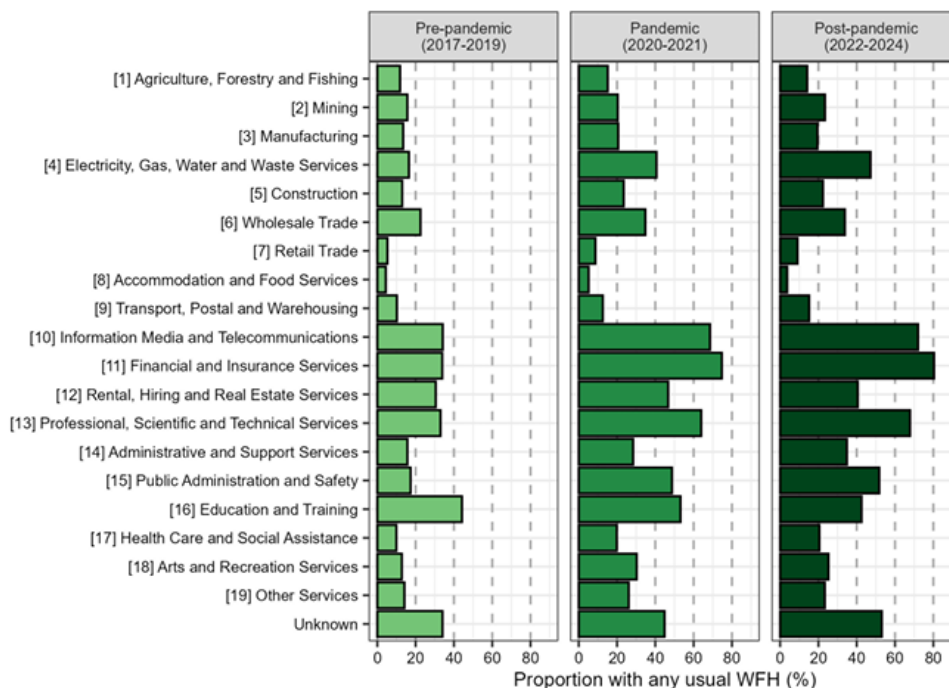
This WFH increase was observed particularly in 'desk-based' industries such as 'Information Media and Telecommunications' and 'Financial and Insurance Services' (Figure 3).

Figure 2: Observation counts of WFH intensity—percentage of their total hours workers usually worked from home—before, during and after the pandemic²²



Note: Employees aged 15-69 only. Excludes observations with no observed WFH arrangements ($WFH_{any} = 0$). Analysis using HILDA, waves 17-24.

Figure 3: Percentage of workers in each major industry division who worked from home on a usual basis before, during and after the pandemic²³



Note: Employees aged 15-69 only. Analysis using HILDA, waves 17-24.

Data source (Figures 2 and 3): HILDA Survey. Analysis and graphic (2 and 3): Mollross (2026)

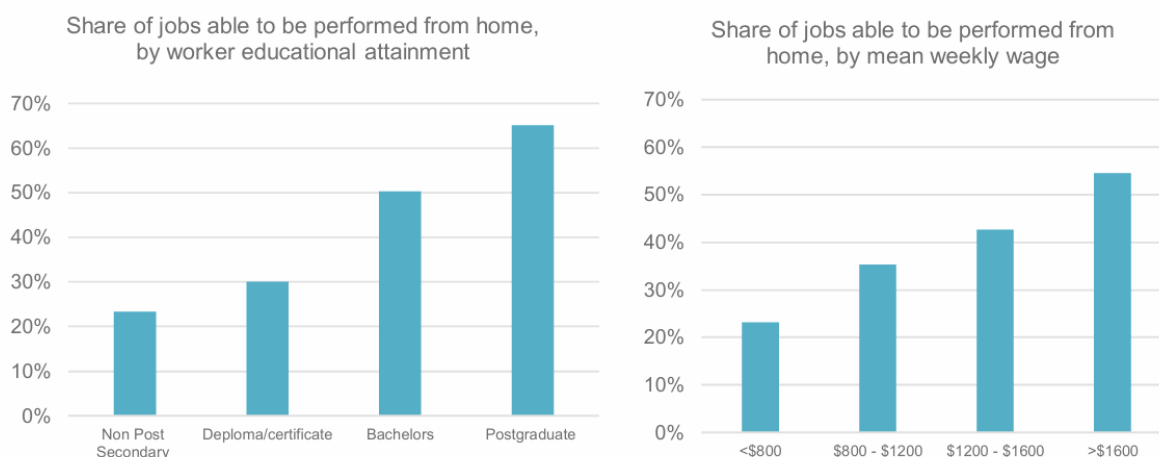
²² *ibid.*, p. 14.

²³ *ibid.*, p. 19.

An Infrastructure Victoria (IV) analysis of working conditions in Victoria published in November 2021 found that the state's WFH take-up was already higher than the national average before the pandemic. It found the 'proportion of people working from home in Victoria increased from an historically stable 10% to 15% of workers prior to the pandemic to around 50% of workers in September 2020'.²⁴

Predictably, 'knowledge-intensive, including professional, scientific and technical services, and information media and telecommunications' were best suited to WFH, while professions least suited involved 'physical interactions between people and/or specialised equipment' (Figure 4, panel 1).²⁵ The demographics benefiting most from WFH allowances were workers with a Bachelor's degree or higher and those in higher wage brackets (Figure 4, panel 2).

Figure 4: Share of jobs able to be performed from home nationwide, by worker education (panel 1) and mean wage (panel 2)²⁶



Data source: ABS 'Household, Income and Labour Dynamics in Australia Survey', 2021. Analysis and graphic: Infrastructure Victoria (2021)

The pivot to WFH was made possible by software enabling work messaging, video calls and collaboration, such as Zoom, Microsoft Teams and Slack. However, given that much of the technological capability already existed before the pandemic unfolded, the shock was, as Nilles predicted, just as much organisational and cultural as technical. Workplaces were forced to troubleshoot WFH as they went, in deciding how it would work best for them in challenging circumstances. The subsequent 'greater social acceptance of work from home' post-pandemic and increased awareness of infection risks in office and commuting environments encouraged uptake.²⁷

The 2021 IV report also contained predictions of how population distributions would change by 2036 with increased and sustained WFH uptake. Melbourne's inner-city employment would rise markedly, while the population would shift to living in Melbourne's outer and growth suburbs as a result of the greater flexibility that comes with less time spent commuting.²⁸ IV also predicted declining populations in regional cities but growth in Melbourne's peri-urban areas.²⁹

From 11.59 pm on 25 February 2022, the Victorian Government's public health recommendation for Victorians to work and study from home was removed and the advice around indoor face coverings in certain contexts was relaxed.³⁰ Some workplaces had

²⁴ Infrastructure Victoria (2021) *The post-pandemic commute: the effects of more working from home in Victoria*, November, Melbourne, Infrastructure Victoria, p. 10.

²⁵ *ibid.*, pp. 7-8.

²⁶ *ibid.*, p. 7.

²⁷ J. M. Barrero et al. (2023) 'The Evolution of Working from Home', *Journal of Economic Perspectives*, 37(4-Fall 2023), pp. 3-4.

²⁸ Infrastructure Victoria (2021) *op. cit.*, p. 23.

²⁹ *ibid.*, pp. 29, 34.

³⁰ M. Foley, Minister for Health (2022) *A Safe And Sensible Return To The Office As Mask Rules Ease*, media release, 22 February.

already committed to returning to the office in full. The City of Melbourne, under then-Lord Mayor Sally Capp, was a notable proponent of getting staff to return to the office as a way of boosting trade in the CBD.³¹ Later in the year, federal amendments to the Fair Work Act provided broader conditions regarding requests for flexible work and the grounds on which businesses may refuse a request.³²

The end of COVID-19 emergency restrictions in workplaces led to increased confrontation between trade unions and business, with unions advocating for workers' requests to retain WFH conditions and some businesses attempting to bring workers back to the office full time.³³ This led to some bargaining agreements allowing conditional rights to request WFH. For instance, in July 2023 after the National Australia Bank (NAB) initially demanded all employees return to the office, the bank eventually negotiated an agreement containing a WFH clause with the Finance Sector Union.³⁴ The clause detailed a ‘process for employees to apply for and establish WFH arrangements and put limitations on the grounds for NAB to refuse a request to work from home’.³⁵

The Federal Government entered an agreement in July 2023 with the Community and Public Sector Union (CPSU) that there wouldn't be a limit to how many days public service employees (about 173,000) could work from home in a week (with mandatory consideration to be given to connection to Country and cultural obligations in the case of First Nations employee requests).³⁶

Current WFH experiences in Victoria

The subsequent uptake of WFH opportunities has been recorded in the ABS's ‘Working arrangements’ dataset, which is updated annually. As of August 2025, distinct trends illustrate how Victorians incorporate WFH into their lives. The most common principal reason for WFH was to work more flexibly and choose your own hours (Figure 5). Further, the most common frequency of WFH used by workers is one to two days a week (Figure 6).

³¹ City of Melbourne (2021) *City of Melbourne staff to return to CBD workplaces*, media release, 24 February.

³² *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth)

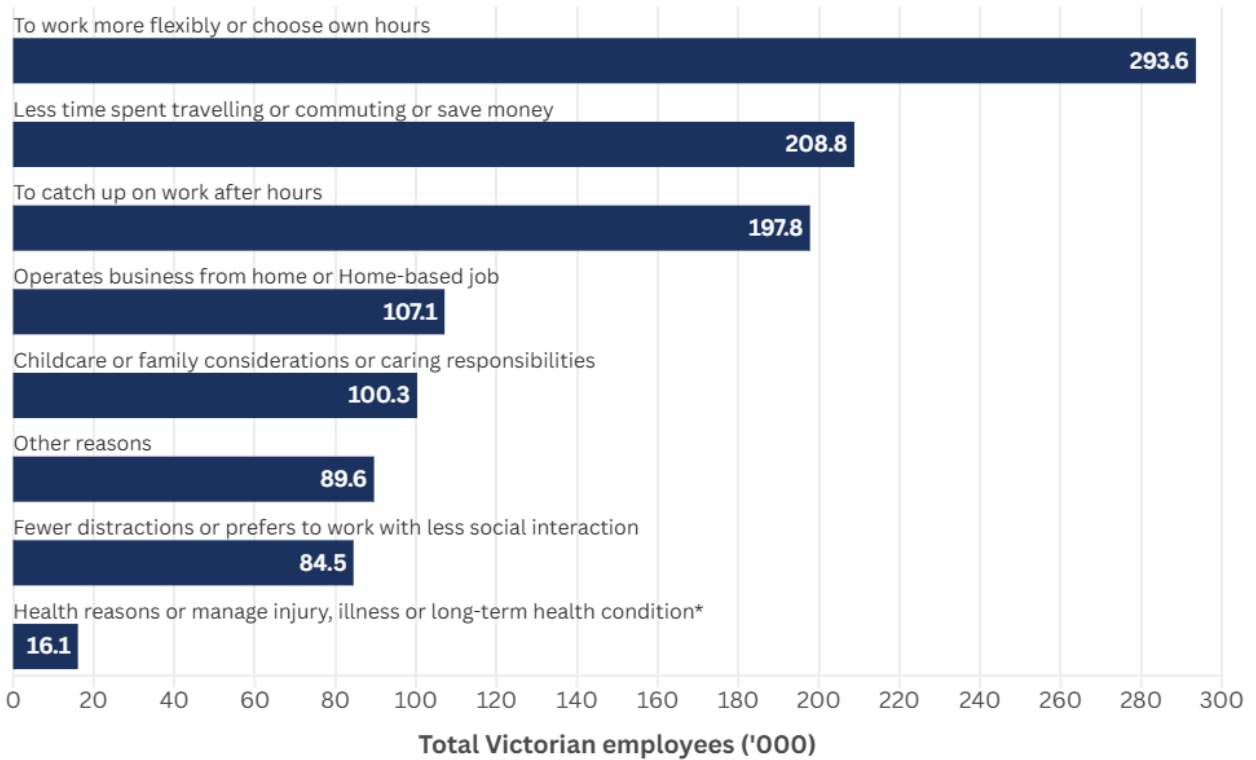
³³ A. Kelsey-Sugg & B. Zajac (2024) ‘Working from home still point of disagreement between staff and CEOs, but new legislation clarifies rules’, *ABC News*, 16 January.

³⁴ B. Kaye (2023) ‘Point of no return: Australians fight for the right to work from home permanently’, *Reuters*, 2 August.

³⁵ C. Morgan (2023) ‘NAB staff secure working from home rights’, *Canberra City News*, 14 July.

³⁶ D. Tilo (2023) ‘Public servants to gain ‘groundbreaking’ flexible work rights’, *Human Resources Director*, 12 July.

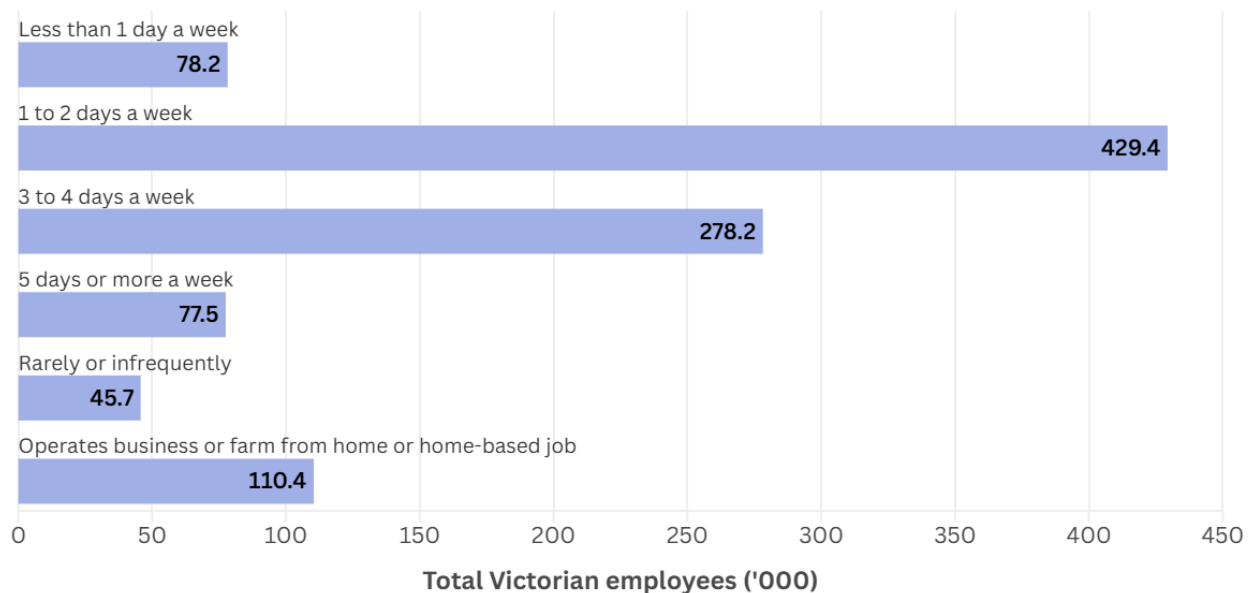
Figure 5: Main reasons for WFH cited by Victorian employees who worked from home in their main job³⁷



* Estimate has a relative standard error of 25% to 50% and should be used with caution

Data source: ABS 'Working Arrangements', August 2025. Graphic: Flourish

Figure 6: Time usually spent working from home³⁸



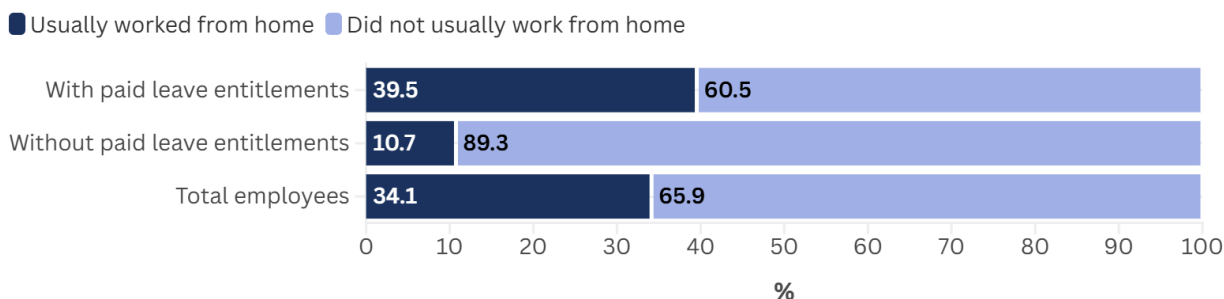
Data source: ABS 'Working Arrangements, August 2025'. Graphic: Flourish

³⁷ Australian Bureau of Statistics (2025) op. cit.

³⁸ ibid.

However, access to WFH is not an equal playing field—Victorian workers with paid leave entitlements are far more likely to be able to access WFH than those without (Figure 7).

Figure 7: Proportion of Victorian employees who usually work from home, by paid leave entitlements status³⁹

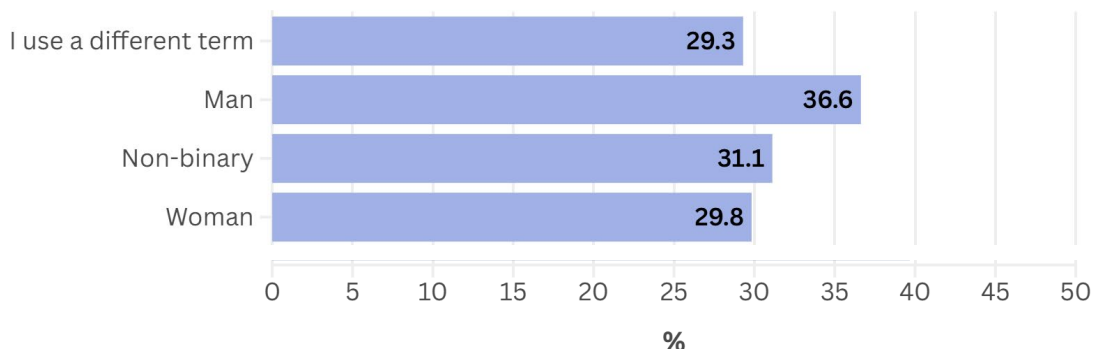


Data source: ABS 'Working Arrangements', August 2025. Graphic: Flourish

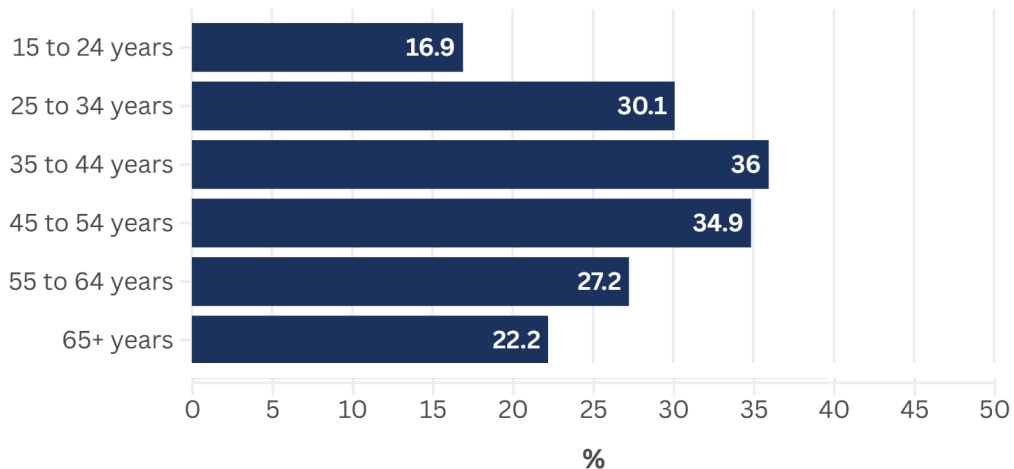
The take-up of WFH also differs across demographics. Data from the Victorian Public Sector's 2024 People Matter Survey indicate that there is stronger WFH uptake among those with a disability, people between the ages of 35 and 54 and men (Figure 8).

Figure 8: Percentage of select demographics in the Victorian public sector workforce working from an alternative location, 2024⁴⁰

Gender

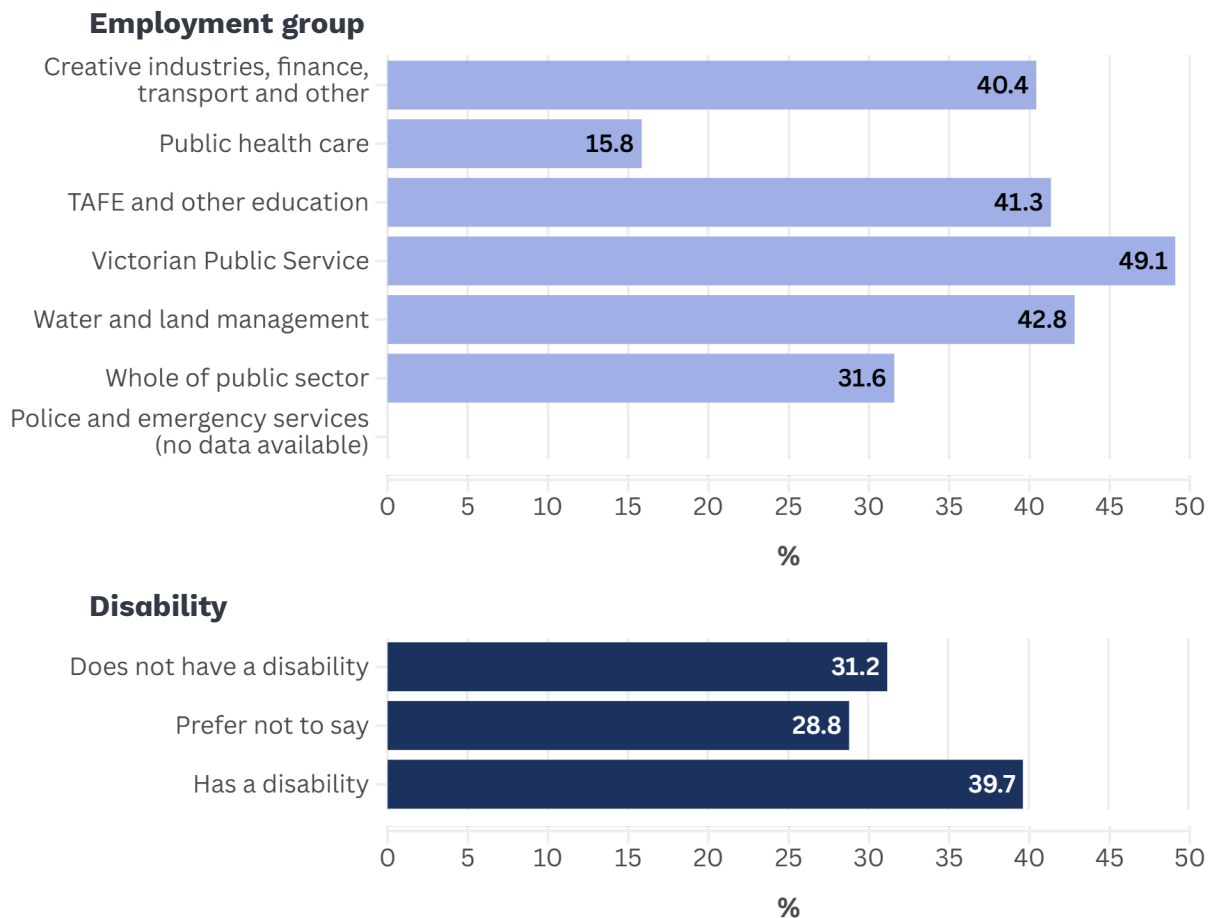


Age



³⁹ *ibid.*

⁴⁰ Victorian Public Sector Commission (2025) 'Flexible work', Victorian Public Sector Commission website.



Data source: ABS 'Working arrangements', August 2025. Graphic: Flourish

The extent of and access to WFH entitlements has been debated before the Fair Work Commission (FWC) and the courts, with some workplaces seeking to enforce a return to office. In January 2026, the FWC upheld the decision of print software company PaperCut to sack an employee who continued to work remotely in contravention of a policy requiring employees to work in the office three days a week.⁴¹

In contrast, the FWC told Westpac it had not provided 'reasonable business grounds' to reject a worker's flexible work proposal and compel them back to the office at least two days a week.⁴² Karlene Chandler had worked for the bank for over 20 years and moved to Wilton, NSW, for family reasons in 2021. Returning to the workplace would mean a two-hour commute for Chandler. Westpac had originally agreed to the flexible work plan but then reversed its decision, requiring Chandler to comply with the company policy of at least two days per week in the office. The FWC's Deputy President Thomas Roberts found that the bank was without reasonable grounds for rejection, and didn't respond to the proposal within 21 days, and that the current arrangement had worked 'very successfully'.⁴³

Recent developments

Since early 2026, WFH has also been suggested as a way of conserving fuel while the US-Israeli war with Iran disrupts oil supplies. The conflict has stalled fuel freight traffic through the Strait of Hormuz, a critical international shipping supply route. The unclear timeline and ultimate consequences of the war, together with scepticism around the adequacy of

⁴¹ M. Muroi (2026) 'Employee sacked for failing to return to office despite contract allowing WFH', *The Age*, 27 January.

⁴² E. Visontay (2025) 'Employers warned after Westpac work-from-home decision', *The Age*, 22 October.

⁴³ *ibid.*

Australia's reserve supplies, prompted the International Energy Agency to encourage Australian businesses to have employees work from home.⁴⁴

The Federal Government initially said businesses could 'make that call' themselves.⁴⁵ Minister for Social Services Tanya Plibersek was reported as saying WFH would be 'helpful' for some, but the government stopped short of issuing a directive.⁴⁶ A national fuel-saving campaign did not explicitly mention or encourage WFH among fuel-saving measures, but Minister for Energy Chris Bowen said more advanced stages of the National Fuel Security Plan may prompt 'more active encouragement' of fuel-saving measures.⁴⁷

Some organisations allowed employees more WFH time to cut travel costs.⁴⁸ Professor of Economics Fabrizio Carmignani argued a point of fuel scarcity had not been reached to justify a government introducing WFH mandates, noting the potential economic damage for CBD businesses and the risks of entrenching wealth inequality between office workers and frontline workers.⁴⁹ Urban planning expert Associate Professor Dorina Pojani said employees would need to 'work from home at least three days a week' to contribute significantly to fuel conservation and said policymakers should 'require businesses to let staff work remotely if their job doesn't need face-to-face contact'.⁵⁰

3 | Current flexible working protections

Current provisions in the Fair Work Act provide employees the right to request flexible working arrangements based on prescribed changes to their circumstances, but this does not constitute a right to WFH. Flexible work refers to a number of options available to an employer and employee to 'change the standard working arrangement to better accommodate an employee's commitments out of work', which may mean WFH but can also include changes to start and finish times, compressed working hours, time-in-lieu and job-sharing, among other provisions.⁵¹

According to the Act, the circumstances in which an employee may request a flexible working arrangement include where the employee:

- is pregnant;
- is a parent or holds responsibility for a school-aged child or younger;
- is a carer (within the meaning of the *Carer Recognition Act 2010*);
- has a disability;
- is 55 or older;
- is experiencing family and domestic violence;
- provides care or support to an immediate family member, or a member of their household, who requires care or support due to family and domestic violence.⁵²

⁴⁴ R. Yosufzai (2026) '[Government says people can 'make the call' on work from home amid fuel supply concerns](#)', *SBS News*, 23 March.

⁴⁵ *ibid.*

⁴⁶ S. B. Canales (2026) '[Albanese urged to help Australians struggling with fuel crisis, as NZ offers first-of-its-kind cash relief](#)', *The Guardian Australia*, 24 March.

⁴⁷ Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (2026) '[National Fuel Security Plan: Fuel saving tips](#)', DITRDCA website; Z. Phillips (2026) '[Australians could be urged to WFH as expert warns next fuel plan stage is 'unavoidable' after fire at Viva oil refinery](#)', *Sky News*, 16 April.

⁴⁸ B. Herbert and M. Vujkovic (2026) '[Fuel crisis puts pressure on workers, business, as calls to work from home reignite](#)', *ABC News*, 31 March.

⁴⁹ *ibid.*

⁵⁰ D. Pojani (2026) '[Should the government encourage people to work from home to save fuel?](#)', *The Conversation*, 8 April.

⁵¹ Workplace Gender Equality Agency (2026) '[Flexible work](#)', WGEA website.

⁵² *Fair Work Act 2009* (Cth), s 65.

Also, in order to be eligible to apply for flexible working conditions, the employee must have 'completed at least 12 months of continuous service with the employer immediately before making the request'.⁵³

Grounds for an employer refusing a request include:

- the proposed arrangements would be too costly for the employer;
- the working arrangements of other employees are unable to be changed to accommodate the new working arrangements;
- changing the working arrangements of other employees, or recruiting new employees, to accommodate the new working arrangements would be impractical;
- there would likely be a significant loss in efficiency or productivity;
- there would likely be a significant negative impact on customer service.⁵⁴

In Victoria, there is also a provision in the *Equal Opportunity Act 2010* (Vic) noting that an employer cannot 'unreasonably refuse to accommodate the responsibilities' of a prospective employee who is a parent or carer (an example in the Act notes this may include occasional work from home).⁵⁵

Noting the disproportionate impact of caring and parental responsibilities on women and the challenges these pose to women seeking to join the workforce, the 'availability and utilisation of terms, conditions and practices relating to flexible working arrangements' are noted as part of the *Gender Equality Act 2020*'s definition of 'workplace gender equality indicators'.⁵⁶

Fair Work Commission review

The FWC has examined WFH provisions in modern awards following the pandemic. Acknowledging that WFH has transitioned from a temporary solution to a long-term option for flexibility, the FWC initiated a review of the Clerks – Private Sector Award 2020 (the Clerks Award) in September 2024. The commission 'will develop a working from home term for the Clerks Award that supports employers and employees making workable arrangements', and the review's conclusions are expected to act as a test case for the broader industry and occupational awards.⁵⁷

The IV report on the future of WFH stated that, of all occupations, clerical workers were best suited to work arrangements; 41 per cent of clerical workers already work from home regularly, marginally higher than the approximately 37 per cent of the broader Australian workforce.⁵⁸ Of the 1.8 million clerical and administrative workers in Australia, over three-quarters are women, although only about 91,000 workers are covered by the Clerks Award.⁵⁹

The Clerks Award review was a recommendation of the FWC's Modern Awards Review 2023–24, stating that the WFH term would ideally:

... be one which facilitates employers and employees making workable arrangements for working at home and removes any existing award impediments to such arrangements. The

⁵³ *ibid.*, s 65(2).

⁵⁴ *ibid.*, s 65A(5).

⁵⁵ *Equal Opportunity Act 2010*, s 17.

⁵⁶ *Gender Equality Act 2020*, s 3, pp. 4–5.

⁵⁷ Fair Work Commission (2026) 'Working from home – Clerks – Private Sector Award 2020 (AM2024/34)', FWC website; D. Marin-Guzman (2025) 'Union push to protect penalties, overtime for WFH', *Australian Financial Review*, 8 October.

⁵⁸ Infrastructure Victoria (2021) *op. cit.*, p. 20; M. Boulio (2025) 'Why the Fair Work Commission is reviewing work from home provisions in the Clerks award', *Business Chamber Queensland*, 3 September; B. Herbert (2024) 'Fair Work Commission reviewing award that would allow more Aussies to work from home', *ABC News*, 13 September.

⁵⁹ L. Walker (2025) 'The ASU is pushing for presumed work from home. Here's what that means', *ABC News*, 18 August.

term that is developed may serve as a model for incorporation in other modern awards, with or without adaptation.⁶⁰

Among those pushing for FWC to insert a right to WFH into the Clerks Award was the Australian Council of Trade Unions (ACTU). Then-secretary Sally McManus said in September 2024 that such a right would act as security against employers ‘unreasonably’ refusing requests for WFH arrangements.⁶¹ Such instances might include ‘an employer only allowing some people to work from home or a large employer simply refusing to consider it is possible’.⁶²

Industry representatives were less enthusiastic, with the Australian Chamber for Commerce and Industry’s Jessica Tinsley advocating for clarification of existing flexible working arrangements, calling a right to WFH an ‘overreach’.⁶³ Recruitment organisations argued that a right to WFH would make the local employment landscape ‘less attractive’ by making compliance too onerous—described in one instance as ‘a lasagne where there is another layer of rights put in’—and that this would send employers interstate or overseas.⁶⁴

In August 2025, the Australian Services Union (ASU) submitted a proposal to the FWC’s review to introduce into the Clerks Award a right to work from home if ‘reasonably requested’.⁶⁵ According to ABC reporting, under the proposal, ‘If an employer and employee cannot come to an agreement, the employer would be required to give that employee 26 weeks’ notice before enforcing a return to the office’.⁶⁶ The Australian Industry Group did not agree with the proposal, with Chief Executive Innes Willox saying it was ‘unnecessary and unreasonable’ and that employers would be discouraged from taking an ‘accommodating approach to employee requests to work from home’.⁶⁷

Tamsin Lawrence, Associate Director of Australian Business Lawyers and Advisors, discussed the current legal framework regarding WFH rights on an ABC forum. Citing the FWC’s review of the Clerks Award, she commented on what the ASU’s proposal might mean for other efforts to introduce a WFH right.⁶⁸ She said the FWC’s self-initiated inquiry was the result of a pattern of cases indicating ‘things that are happening aren’t in accordance with the law’ but that there was ‘also a push from some employees to say, “Hey, we’d actually like a right to be inserted”’.⁶⁹ Such a mechanism would ‘operate outside the government needing to make any changes’ and suggests an unwillingness of the Federal Government to weigh into this legislative area.⁷⁰ Legal academic Dr Gabrielle Golding described the review as an ‘important test case’, saying the result will ‘set the tone of what is to come for those employees covered in the other 25 awards that have a clerical classification’.⁷¹

⁶⁰ A. Hatcher, Justice (2024) *President’s statement: Modern Awards Review 2023-24 — Final Report*, media release, 18 July, p. 3

⁶¹ Herbert (2024) op. cit.

⁶² *ibid.*

⁶³ *ibid.*

⁶⁴ *ibid.*

⁶⁵ Walker (2025) op. cit.

⁶⁶ *ibid.*

⁶⁷ *ibid.*

⁶⁸ *ibid.*

⁶⁹ R. Epstein (2026) ‘[Change My Mind: Working From Home](#)’, *Melbourne Mornings*, 774 ABC Melbourne, radio broadcast, 25 February.

⁷⁰ Epstein (2026) op. cit.

⁷¹ Herbert (2024) op. cit.

4 | Victorian Government proposal

The Victorian Government announced in August 2025 that it would seek to introduce legislation providing employees in both the public and private sectors with the right to work from home up to two days a week.⁷² As part of the announcement, Premier Jacinta Allan cited a range of benefits including cost-of-living savings for employees from reduced commuting, greater gains for businesses, and support for women with children, carers, and people with a disability to enter the workforce. While a large section of the population is already working from home some of the time, the Premier cited reports from several trade unions that workplaces were refusing workers requests for WFH when they could reasonably have worked from home.⁷³

The initial promise also came off the back of the May 2025 federal election campaign, in which the Federal Opposition announced a policy to bring public sector workers back to the office.⁷⁴ While the policy was quickly retracted, it was cited as a major factor in the Coalition's election loss due to its inflexibility, its disproportionate impact on women and people with a disability, and its unpopularity in areas with significant WFH cohorts.⁷⁵

Consultation

To assess how a right to WFH could operate, the Victorian Government invited stakeholders or individuals to make submissions or complete a survey as part of a consultation process.⁷⁶ The survey attracted the biggest-ever response to a Victorian Government survey to date, with 36,770 responses. The vast majority of responses were from employees (94 per cent). Other engagement tools included industry forums to gauge business and industry views on both WFH's value and the government's proposal.

The survey results suggested a majority (57 per cent) of respondents were women, a slim majority (53 per cent) were parents or carers, and a large portion were employees who have commutes of longer than 1 hour (39 per cent). It found:

- 82 per cent of employees surveyed said they currently have the option of WFH, 36 per cent of whom work from home two days a week; and
- a small percentage of respondents—5.9 per cent, or 2,049 employees—said they had asked for WFH but had been refused, with 1,988 of them (97 per cent of the 2049) believing their workplace's response was unreasonable and 1,549 (76 per cent) saying they had experienced further challenges as a result.⁷⁷

WFH was described as being 'extremely important' to 74 per cent of respondents, as well as a key driver behind choosing one job over another (88 per cent of respondents), staying in a job longer (88 per cent) or choosing where to live (71 per cent).⁷⁸ In an early breakdown of respondents' locations, the top postcodes represented were mostly suburbs on Melbourne's urban fringe, including Point Cook, Truganina, Roxburgh Park, Clyde, Berwick and Mernda, while the only non-Melburnian suburb in the top ten was Redan in central Ballarat.⁷⁹

⁷² J. Allan, Premier (2025) *Work From Home Works For Families*, media release, 2 August.

⁷³ L. Uhlman & V. Ticha (2025) 'Return-to-office mandates are here – but will they stick?', *University of New South Wales Newsroom*, 1 April.

⁷⁴ Liberal Party of Australia (2025) *Our Plan for an Efficient and Effective Public Service*, media release, 7 April.

⁷⁵ J. Butler (2025) 'We've made a mistake': Peter Dutton backs down on working from home policy', 7 April; S. Ilanbey (2026) 'Labor won over blue-collar voters, people working from home: review', *Australian Financial Review*, 23 January.

⁷⁶ Department of Premier and Cabinet (2025) 'Have your say: Working from home legislation', Engage Victoria.

⁷⁷ J. Allan, Premier (2025) *Biggest-ever Vic Gov survey says working from home works*, media release, 2 October.

⁷⁸ *ibid.*

⁷⁹ J. Allan, Premier (2025) *Record smashed: thousands have a say on work from home*, media release, 2 September.

Forthcoming reform

Subsequently, the Victorian Government announced on 4 March 2026 that it would proceed with plans to legislate a right to WFH for at least two days per week.⁸⁰

A right to WFH would be enacted by amending the *Equal Opportunity Act 2010* and would apply to anyone, regardless of the size of a workplace, commencing on 1 September 2026; however, commencement would be delayed until 1 July 2027 for workplaces with fewer than 15 employees to allow planning time for small businesses. Disputes would be handled by the Victorian Equal Opportunity and Human Rights Commission, and beyond that by the Victorian Civil and Administrative Tribunal.⁸¹

Parliamentary response

A number of different views were expressed in the Victorian Legislative Assembly in response to the announcement. The Premier argued a legislated right would enable a small cohort to work from home where they had previously not had the confidence to ask, including those from small businesses which were less likely than larger businesses to offer WFH opportunities.⁸² Then Minister for Women Mary-Ann Thomas emphasised the gains that such a right would enable for women, especially those who have insecure work and women with caring responsibilities.⁸³ Then Minister for Economic Growth and Jobs Danny Pearson argued the policy would also help the economy by boosting productivity and labour force participation.⁸⁴

Shadow Attorney-General James Newbury indicated the opposition supported WFH but queried the government's delay in bringing the promised legislation, accusing the government of 'gaslighting Victorians'.⁸⁵ This view was reiterated by other opposition members, though debate between the Labor and Coalition sides hinged on the distinction between supporting WFH and legislating the right to WFH.⁸⁶

Appearing on the ABC WFH forum, Treasurer and former Attorney-General Jaclyn Symes stated that while WFH is commonly cited as a good thing for many, the legislation will be principally aimed at those who 'have difficulty accessing the ability to do that even though it makes sense to do so' and have been denied requests 'unreasonably'.⁸⁷ Asked why a law is needed to effect this change, the Treasurer said the certainty of a legislated right to WFH would help employers to attract talent but would also protect against employees' agreed-upon flexible work provisions being vulnerable to changes of management.⁸⁸ As one example, in COVID-19's aftermath, with many law firms requesting that employees come back to the office, legal recruiter Paul Burgess argued that a right to WFH in a contract would be helpful for lawyers hoping to do so but that 'very few contracts contain such a right'.⁸⁹

⁸⁰ J. Allan, Premier (2026) *Work from home protected in law from 1 September*, media release, 4 March.
⁸¹ *ibid.*

⁸² J. Allan, Premier (2026) '*Ministers statements: working from home*', *Debates*, Victoria, Legislative Assembly, 3 March, pp. 604–05.

⁸³ M.-A. Thomas, Minister for Health (2026) '*Ministers statements: working from home*', *Debates*, Victoria, Legislative Assembly, 3 March, pp. 605–06.

⁸⁴ D. Pearson, Minister for Economic Growth and Jobs (2026) '*Ministers statements: working from home*', *Debates*, Victoria, Legislative Assembly, 3 March, pp. 606–07.

⁸⁵ J. Newbury, Shadow Attorney-General (2026) '*Motions: working from home*', *Debates*, Victoria, Legislative Assembly, 5 March, pp. 803–08.

⁸⁶ W. Farnham, (2026) '*Motions: working from home*', *Debates*, Victoria, Legislative Assembly, 5 March, pp. 814–815; N. Taylor, (2026) '*Motions: working from home*', *Debates*, Victoria, Legislative Assembly, 5 March, pp. 812–14.

⁸⁷ Epstein (2026) *op. cit.*

⁸⁸ *ibid.*

⁸⁹ K. Derkley (2022) '*Workplace: WFH flexibility in demand*', *Law Institute Journal*, 2022(10), pp. 15–16.

5 | Key issues

Working from home offers advantages and challenges for many stakeholders, not just employees and employers. Benefits identified include improved mental health of workers from reduced commuting time, alleviated cost-of-living pressures, boosts to worker autonomy and consequently productivity, reduced burnout, employees being less territorial due to office interruptions, cuts to pollution and improvements in work-life balance.⁹⁰ There are also indications that workers are exercising more when working from home than they would in an office environment and also snacking more (and more healthily).⁹¹ One particular study found that 'a hybrid schedule with two days a week working from home does not damage performance'.⁹²

Reported downsides of WFH have included increased social isolation, limited promotion opportunities, challenges around communication among distributed workers, reduced incidental opportunities for knowledge-sharing between employees, reduced ability of managers to maintain relationships with and monitor employees, and increased data risks.⁹³

One study examined how a divide between employers and employees has emerged over the perceived value of WFH, finding that the question of productivity and what kinds of productivity are important can be a source of tension. For instance, time saved not commuting could be considered a source of productivity for the worker, while managers are more concerned with workplace culture and might see WFH as an impediment to knowledge transfer, which may have a negative impact over long-term productivity.⁹⁴

Others have found the negative aspects of WFH came down to a gradually developing 'productivity culture' of longer hours, a preoccupation with measurable goals and longer and more frequent meetings.⁹⁵ These negative aspects have been facilitated by increasingly complex technology deployed into the home, blurring the boundaries between work and non-work spaces, leisure and work time.⁹⁶ Part of the reason for 'workplace creep' and its negative effects has been attributed to organisations treating WFH as a transplant of regular office activity into the home, rather than treating WFH as a skill to be developed through 'careful planning and clear communication'.⁹⁷ To implement WFH without these guardrails is to ignore 'the ever-accelerating goal of office tech and design ... to clear space in someone's life, then immediately seed it with the potential for more productivity'.⁹⁸

Ultimately, the pros and cons of WFH are highly dependent on the adaptability of the institution, the office culture and the individual experience. Over the years, as organisations have worked out the supports that WFH employees require, employee and employer experiences appear to have improved. Analysis of the Australian Workplace Index (AWI) in

⁹⁰ J. Kabatek and F. Botha (2025) 'What's working from home doing to your mental health? We tracked 16,000 Australians to find out', *The Conversation*, 3 December; D. Pojani et al. (2025) 'Politics aside, new research shows there are good financial reasons to back working from home', *The Conversation*, 8 April; C. Boedker et al. (2025) 'More than two-thirds of organisations have a formal work-from-home policy. Here's how the benefits stack up', *The Conversation*, 7 March; C. Mangen (2024) 'Remote work is a game-changer for addressing burnout in workers', *The Conversation*, 17 December; O. Ayoko (2023) 'This desk is mine! How noisy offices can make us more territorial', *The Conversation*, 14 September; P. Makowski (2023) 'Remote work marks the path to a greener future', *The Conversation*, 14 September.

⁹¹ T. Ferguson et al. (2024) 'Working from home can make us healthier and happier. Employers benefit too. Here's the evidence if you need any convincing', *The Conversation*, 8 March.

⁹² N. Bloom et al. (2024) 'Hybrid working from home improves retention without damaging performance', *Nature*, 630(8018), pp. 920–25.

⁹³ C. Prosser (2026) 'How to reduce loneliness while working remotely', *ABC News*, 11 February; J. Campbell (2023) "Detrimental impact: 86% of bosses say WFH halts career progression opportunities", *HR Leader*, 1 June. P. Choudhury (2020) 'Our work-from-anywhere future: best practices for all-remote organizations', *Harvard Business Review*, 98(6), pp. 58–67.

⁹⁴ Barrero et al. (2023) op. cit., p. 18.

⁹⁵ C. Warzel & A. H. Peterson (2022) *Out of Office: the big problem and bigger promise of working from home*, Brunswick, Scribe Publications, pp. 28, 35.

⁹⁶ B. Pocock (2021) 'As boundaries between work and home vanish, employees need a 'right to disconnect'', *The Conversation*, 29 April.

⁹⁷ Warzel and Peterson (2022) op. cit., pp. 43, 58.

⁹⁸ *ibid.*, pp. 42–45, 126.

2022 suggested WFH three or four days a week was linked with ‘lower wellbeing, higher depression and anxiety, and higher loneliness’, while 2024 AWI data—when more employers had WFH policies in place and were better equipped to support workers—saw increased autonomy, higher productivity and less burnout.⁹⁹

The divide between employers and employees

Opinion on the necessity for legislation to enshrine a WFH right in Victoria is generally divided between workers, who would by and large prefer to keep or expand WFH, and employers, who are keener to get people back to the office.¹⁰⁰

While the ACTU and ASU have been advocating for changes through the FWC’s review of awards, Victoria Trades Hall Council described enshrining a right to WFH in Victorian legislation as a ‘simple change’ that would go some way to reducing congestion and increasing family time, while also countering the post-COVID effect of workers having to ‘argue with their boss’ about keeping arrangements normalised during the pandemic.¹⁰¹

However, opposition from the business community has been vocal. In October 2025, the City of Melbourne’s Future Melbourne Committee saw the proposal as endangering the economic health of the CBD, bringing about higher vacancy rates, reducing visitor numbers and lessening demand to sustain small businesses.¹⁰² The Premier responded to the City of Melbourne’s concerns by saying they had left workers out of their list of stakeholders consulted.¹⁰³

The Victorian Chamber of Commerce and Industry and the Committee for Melbourne opposed legislating a right to WFH, describing it as ‘overreach’.¹⁰⁴ They claimed young Victorians would be deprived of ‘professional development opportunities’ while businesses already grappling with ‘high taxes, regulatory burdens and escalating costs’ would look to do business elsewhere.¹⁰⁵

The Centre for Economic Development of Australia considered legislation ‘unnecessary’, backing employers ‘to assess the trade-offs they face in terms of productivity, staff retention and the wages they need to offer to attract staff’, adding that the ‘additional regulatory burden’ would risk ‘turning working from home into an industrial relations battleground’.¹⁰⁶ The Business Council of Australia also advocated for scrapping plans to legislate a WFH right, claiming it would ‘will drive investment and jobs away from the state’ as well as undermine existing trust-based arrangements and entrench a divide between those whose occupations are suited to WFH and those that aren’t.¹⁰⁷

Tim Piper, Victorian head of the Australian Industry Group, said he didn’t ‘see the point of forcing anybody to do this’.¹⁰⁸ The Council of Small Business Organisations Australia claimed that legislation would impose ‘additional compliance burdens on small businesses already under significant strain’.¹⁰⁹ The Victorian branch of the Master Builders Association also

⁹⁹ Boedker et al. (2025) op. cit.

¹⁰⁰ Kaye (2023) op. cit.

¹⁰¹ Victorian Trades Hall Council, (2025) [VTHC welcomes the Allan Labor Government’s plan to protect work from home](#), media release, 2 August.

¹⁰² R. Camillo, Cr (2025) ‘7.2 Notice of Motion, Cr Rafael Camillo: Proposed Victorian Government legislation to mandate working from home in Victoria’, *Meeting 18: Unconfirmed Minutes*, City of Melbourne, Future Melbourne Committee, 21 October.

¹⁰³ S. Car (2026) ‘Premier’s public rebuke over work-from-home misses the mark’, *CBD News*, 24 February.

¹⁰⁴ Victorian Chamber of Commerce and Industry (2025) [Victorian businesses reject Government overreach on remote work legislation](#), media release, 7 October.

¹⁰⁵ *ibid.*

¹⁰⁶ Committee for Economic Development of Australia (2025) op. cit.

¹⁰⁷ Business Council of Australia (2025) [Business Council warns Victorian work from home legislation risks jobs and investment](#), media release, 24 September.

¹⁰⁸ C. Le Grand (2026) ‘Labor rules out work from home exemption for small business’, *The Age*, 3 March.

¹⁰⁹ Council of Small Business Organisations Australia (2026) [COSBOA: Victorian WFH proposal adds unnecessary complexity for small business](#), media release, 3 March.

expressed concern that a ‘loss of productivity from this proposed legislation may have long-term flow-on effects on housing supply and affordability’.¹¹⁰

Impact on women and people with disability

Efforts to reverse WFH entitlements normalised during the pandemic and bring people back to the office have highlighted the impacts and opportunities that remote work have brought about for women, carers and people with a disability. According to a CEDA analysis of HILDA survey data from 2019 to 2022, ‘workforce participation in jobs where people could work from home jumped by 8.5 percentage points for women with young children and nearly six percentage points for people with a disability or health condition from 2019 to 2022’.¹¹¹

Some people with a disability have cited remote work as being favourable in the face of accessibility challenges and work opportunities.¹¹² A University of New South Wales survey found that management of health conditions, reduction in sensory issues and reduction of capacity-inhibiting distractions were considered by people with a disability, in many cases, to be key to their employment sustainability.¹¹³ A reduction in time devoted to managing a disability or chronic health condition—such as time spent navigating facilities despite mobility issues—and the mental health gains from ‘reduced stress, less anxiety and feeling happier at work’ meant a majority of respondents to the NSW study (two-thirds) felt they were more productive when WFH; the flow-on effect of this is an increased chance of employee retention and a more inclusive recruitment pool.¹¹⁴

Women returning to the workplace or seeking employment have also benefited from more flexible working arrangements. Research from the University of Toronto into workplace-based gender biases found a marked drop in women’s experience of ‘everyday discrimination’—‘from being underestimated to being excluded from social activities and experiencing sexual harassment’—when women work from home.¹¹⁵ In Victoria’s over-15 population, as of February 2026, 54 per cent of men are in full-time employment and 14 per cent part time, compared with 33 per cent full-time and 28 per cent part-time for women.¹¹⁶ Greater full-time workforce participation may be possible for parents and carers, particularly mothers of young children (given the disproportionate care burden that women take on) because of increased uptake of flexible work policies.¹¹⁷ However, the study also found a lower willingness among women to volunteer for WFH, which might be attributed to ‘concerns about negative career signalling’.¹¹⁸

A Stanford University study of a controlled trial found that a hybrid WFH model can also help with employee retention, with a 54 per cent reduction in resignation rates among women in particular.¹¹⁹

¹¹⁰ Master Builders Victoria (2026) *MBV supports flexibility, not a right to work from home*, media release, 3 March.

¹¹¹ Committee for Economic Development of Australia (2024) *Remote work has boosted employment for parents and people with a disability*, media release, 22 February.

¹¹² Ferguson et al. (2024) op. cit.

¹¹³ S. Williamson et al. (2023) ‘Back-to-the-office push could reverse gains for people with disability’, *University of New South Wales Newsroom*, 25 July.

¹¹⁴ *ibid.*

¹¹⁵ L. Doering & A. Tilcsik (2025) ‘Remote work reduced gender discrimination — returning to the office may change that’, *The Conversation*, 28 October.

¹¹⁶ Department of Jobs, Skills, Industry and Regions (2026) ‘Victorian labour force: Victorian Jobs Dashboard’, DJSIR website.

¹¹⁷ Committee for Economic Development of Australia (2024) *Economic and Policy Outlook*, Melbourne, CEDA, pp. 23, 34; Ferguson et al. (2024) op. cit.

¹¹⁸ Bloom et al. (2024) op. cit., p. 922

¹¹⁹ *ibid.*

Commuting

With much of Melbourne’s working population living in areas a considerable distance from their workplace, commute times have been a particular focus of WFH discussions, just as they were in the 1970s when the idea of telecommuting was raised.

Obvious benefits from reducing commuting time include fewer emissions, with one study from the US finding that ‘working remotely two or four days a week reduced an individual’s emissions by up to 29% compared with on-site workers’.¹²⁰ The reduced spending on fuel and/or public transport costs was also considerable—albeit variable.¹²¹

The relationship between commuting and stress was a focus of the most recent HILDA Survey. An analysis of the survey results found that workers with long-distance commutes ‘report higher chances of leaving their jobs voluntarily within the next year than short-distance commuters’ and ‘are more likely to have looked for a new job at some time in the last four weeks’.¹²² Long-distance commuters also appear to be less satisfied with their work than short-distance commuters, most notably in the amount of free time.¹²³

HILDA findings indicated that longer commute times correlated with increased time stress—where someone often or almost always feels ‘rushed or pressed for time’—particularly for women.¹²⁴ However, this did not necessarily mean that taking away the commute translated to less time stress. This appeared only to mean the introduction of other contributors to time stress, meaning those who work some hours from home reported higher time stress than those who work none—a consistent trend for 22 years.¹²⁵ The analysis suggested this was due to ‘blurred work–life boundaries, workload intensification or self-selection into WFH by individuals with more demanding jobs’.¹²⁶

Time stress and daily commute times both declined during the pandemic: Australians commuting more than 1 hour per day dropped from 50.2 per cent in 2019 to 32.9 per cent in 2020 (see Table 1 on following page).¹²⁷ The proportion of workers with commuting times of more than 1 hour rebounded after the pandemic but not to pre-pandemic heights. Average weekly WFH hours also rose from 11.3 in 2019 to 23.0 in 2020 and, while declining since, have remained high from COVID-19’s ‘enduring’ influence.¹²⁸

The HILDA survey results indicate those who had worked from home during the pandemic and then returned to the workplace afterwards experienced a sharp increase in time stress in 2023, from 42 per cent in 2022 to 53.4 per cent in 2023. Those who continued to work from home or had never worked from home were more stable, with considerably fewer people reporting time stress.¹²⁹ Ultimately, the report stated ‘the relationship between WFH and time stress is not uniform and may vary depending on workers’ specific circumstances and transitions between work environments’.¹³⁰

¹²⁰ Makowski (2023) op. cit.; P. Barkham (2023) ‘People who work from home all the time ‘cut emissions by 54%’ against those in office’, *The Guardian*, 19 September.

¹²¹ Committee for Economic Development of Australia, (2025) *Australians are saving time and money and working more thanks to WFH*, media release, 30 April.

¹²² Laß et al. (2025) op. cit., p. 105

¹²³ *ibid.*

¹²⁴ *ibid.*, p. 192.

¹²⁵ *ibid.*, pp. 186, 192–93.

¹²⁶ *ibid.*, p. 192.

¹²⁷ *ibid.*, p. 193.

¹²⁸ *ibid.*

¹²⁹ *ibid.*, p. 194.

¹³⁰ *ibid.*, p. 195.

Table 1: Time stress, commuting and working hours among those working from home, 2019 to 2023, Australia-wide¹³¹

	2019	2020	2021	2022	2023
Time stress					
Reporting time stress (%)	51.2	41.5	43.5	46.9	44.9
Daily commuting times					
Average daily commute (in minutes)	61.3	42.7	41.6	45.2	46.9
Commuting over 1 hour per day (%)	50.2	32.9	33.4	34.2	35.6
Time spent working from home					
Average weekly hours worked from home	11.3	23.0	24.4	19.1	18.3
Working 50% or more at home (%)	22.7	60.9	63.1	49.1	47.4
Working 100% at home (%)	12.3	43.0	46.9	21.7	17.9
Employed adults working from home (millions)					
	3.3	4.3	4.7	4.6	4.8
Proportion of adult workers (%)					
	26.5	35.7	38.5	35.6	36.0

Data source: HILDA Survey. Table source: Laß et al (2025).

Workplace surveillance

The proliferation of WFH technologies has introduced more opportunities for workplace surveillance, and this was the subject of a Legislative Assembly Economy and Infrastructure Committee report published in May 2025. The inquiry into workplace surveillance found that about 90 per cent of organisations were using electronic surveillance to monitor their employees working from home by the end of 2020.¹³²

Workplace surveillance is often justified by workplaces as beneficial for productivity and monitoring compliance, but evidence to the committee revealed various concerns. Software was sometimes adopted without rigorous legal, privacy and security considerations or workforce consultation.¹³³ In this shift from 'workplace' to 'workspace', from office to home, evidence to the committee suggested that the use of technology and monitoring software and the erosion of privacy have become normalised.¹³⁴ Many workers are unaware of the extent of surveillance or the end use of collected data.¹³⁵ The report also recounted concerns around 'undisclosed function creep' where workplace surveillance technology deployed for, say, security purposes is then used for monitoring performance through the use of geo-tracking, audio or cloud-based data collection.¹³⁶

A proposal to legislate a WFH right that would increase WFH access may affect how Victorian lawmakers and employers account for issues associated with workplace surveillance in WFH arrangements. The inquiry broadly heard calls from law reform bodies for reform on worker surveillance at state level, saying current state laws are inadequate to deal with the fast-changing landscape of worker surveillance and 'do not cover all scenarios or technologies and do not require employers to notify or consult with their employees about surveillance in the workplace'.¹³⁷ Professor Peter Leonard indicated 'that Australia's

¹³¹ *ibid.*, p. 193.

¹³² Legislative Assembly Economy and Infrastructure Committee, (2025) *Inquiry into workplace surveillance*, May, Melbourne, The Committee, p. 25.

¹³³ *ibid.*, p. 26.

¹³⁴ *ibid.*, p. 25.

¹³⁵ *ibid.*, p. 34–35.

¹³⁶ *ibid.*, pp. 35, 37.

¹³⁷ *ibid.*, p. 71.

surveillance statutes were developed to address older and more limited technologies and circumstances that did not include working from home and employer-provided devices'.¹³⁸

The committee's report ultimately recommended:

... new principles-based workplace surveillance legislation that is technology neutral, defines a workplace as wherever work occurs, and places a positive obligation on employers to prove through a risk assessment that any surveillance they conduct is reasonable, necessary and proportionate to achieve a stated legitimate objective.¹³⁹

6 | Flexible working legislation in other jurisdictions

While Victoria may become the first jurisdiction in Australia to legislate a right to WFH, WFH entitlements have been implemented in various ways elsewhere. Several European Union (EU) countries have statutory WFH provisions, although it is more commonly known as 'telework'. However, despite flexible work having been introduced into legislation as early as 1996 in one member state (Finland), an EU-wide right to WFH has not eventuated. The EU Framework Agreement on Telework requires all countries to have 'an agreement between the employee and the employer, normally following an employee request'.¹⁴⁰ While 'all employees are entitled to ask for telework, the employer always has the right to reject an employee's request'.¹⁴¹ A recent report from the EU's workplace advisory body Eurofound states:

In only three countries (France, Lithuania and Portugal (the latter modified in 2021)) does legislation provide that an employer's decision following a telework request must be justified or motivated, particularly when it affects workers with care needs. Therefore, it can be considered that these three countries recognise the right to request telework.¹⁴²

A right to request a flexible working arrangement from the first day of employment, including negotiating where an employee may work, was implemented in the UK as of 6 April 2024. Previously a worker was required to have worked continuously with the same employer for 26 weeks.¹⁴³

Finland is generally considered a leader in the space of flexible work, being the first to legislate for flexible working hours in 1996 through its *Working Hours Act 1996*. The Act allowed employees to start or finish work three hours outside of core working hours.¹⁴⁴ It has not, however, developed into a right to work from home. That Act was subsequently replaced by the *Working Time Act 2019*, which retained amended provisions for adjusted start and finish times (with limitations). It also introduced the concept of 'flexiwork', where employees can, by agreement, decide when and where they spend at least half of their working time.¹⁴⁵

¹³⁸ *ibid.*, p. 75.

¹³⁹ *ibid.*, p. 91.

¹⁴⁰ Eurofound (2022) *Telework in the EU: Regulatory frameworks and recent updates*, 1 September, Luxembourg, Publications Office of the European Union, p. 22.

¹⁴¹ *ibid.*

¹⁴² *ibid.*

¹⁴³ United Kingdom Government (2024) 'Applying for flexible working', Gov.UK, archived 21 February 2024.

¹⁴⁴ M. Savage (2019) 'Why Finland leads the world in flexible work', *BBC*, 9 August.

¹⁴⁵ Ministry of Economic Affairs and Employment of Finland (2026) 'Working time is regulated by the Working Time Act and collective agreements', Ministry of Economic Affairs and Employment of Finland website; Department of Enterprise, Trade and Employment (2021) *Right to request remote working – International review*, July, Dublin, Department of Enterprise, Trade and Employment, p. 6.

Meanwhile, in Bulgaria, Malta and Romania, there is legislation enshrining the right of an employee to *reject* a WFH proposal from an employer. In these countries:

... legislation reinforces workers' right to reject telework by establishing that the refusal of the employee cannot lead to unfavourable consequences for them (Bulgaria) or constitute a good and sufficient cause for terminating employment or modifying employment conditions (Malta and Romania).¹⁴⁶

France

Telework—that is, work conducted from any place that is not the principal workplace—has been a conditional right in France since 2017. Employers still retain the right to deny a request to WFH provided the decision is made on objective grounds.¹⁴⁷ Before 2021 the French Labour Code had specified that telework had to be performed on a 'regular basis', but that requirement was removed, opening interpretation to include more 'situational telework' where someone might need to work from home on an *ad hoc* basis around caring arrangements, for instance.¹⁴⁸ The employer retains health and safety obligations for the employee while they are working remotely, must ensure the remote workspace is appropriate and must also 'prevent employee isolation, control workloads and ensure a balance between the worker's private and professional lives'.¹⁴⁹

Portugal

In 2021 Portugal introduced changes to its Employment Code providing a right to WFH in very limited circumstances. While in most cases remote working arrangements must be agreed to by both employer and employee in a special type of contract, there are certain situations where an employee cannot be refused a request for remote working:

- an employee is a victim of domestic violence, has filed a criminal complaint and has left their previous home; or
- the employer has the adequate means to implement teleworking and the employee has a child who:
 - is up to three years of age; or
 - has a disability or chronic illness; or
 - is up to eight years of age (but only in certain situations, such as where it is a single-parent household and that parent meets the conditions for doing their work in a telework environment).¹⁵⁰

Netherlands

Similar to the United Kingdom's previous 26-week employment condition, the Netherlands requires a six-month minimum continuous period of employment before an employee can request WFH, together with the requirement that the organisation employs ten or more people.¹⁵¹ While the employer can deny the request, it must provide 'business' reasons for not granting the request at least a month before the proposed start of the arrangement; if it doesn't respond accordingly, the request must be granted.¹⁵² The employer also remains responsible for the health and safety of the employee as well as the costs of providing

¹⁴⁶ Eurofound (2022) op. cit., p. 22

¹⁴⁷ French-Business-Law.com (2023) '[Article L1222-9 of the French Labour Code](#)', French-Business-Law.com.

¹⁴⁸ Department of Enterprise, Trade and Employment (2021) op. cit., p. 4

¹⁴⁹ CMS (2024) '[Remote Working Legislation, Laws & Regulations in France](#)', CMS.

¹⁵⁰ Department of Enterprise, Trade and Employment (2021) op. cit., p. 5; C. S. Ferreira (2021) '[Portugal: New law on remote work including ban on employers contacting employees outside of working hours published and due in force on 1 January 2022](#)', *Lexology*, 7 December.

¹⁵¹ Department of Enterprise, Trade and Employment (2021) op. cit., p. 11

¹⁵² *ibid.*, pp. 11–12.

equipment. Reasons for not granting the request might include safety issues, organisational roster requirements, or financial and other consequences for the organisation.¹⁵³

¹⁵³ *ibid.*, p. 12.

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