



# Guidelines for implementing Individual Flexibility Agreements in residential out-of-home care settings during the COVID-19 pandemic period

## About the Guidelines

The purpose of these guidelines is to assist employers operating residential out-of-home care services and their employees in negotiating Individual Flexibility Agreements to enable quality essential services to continue to be delivered to vulnerable children and young people during the COVID-19 pandemic period. The guidance provided is consistent with the COVID-19 public health orders currently in place and takes account of the increased health and safety risks for employees in the current environment and potential workforce shortages facing agencies due to isolation and quarantine requirements.

These guidelines need to be read alongside the model COVID-19 Individual Flexibility Agreements (IFAs). Both documents have been prepared collaboratively by the Association of Child Welfare Agencies (ACWA) – the peak body representing the rights, needs and interests of vulnerable children and young people, and the voice of organisations who work with them in NSW – and the Australian Services Union (ASU) – which represents and advocates for the rights and interests of its members working in the social and community services sector, via a consensual process which was facilitated by the Fair Work Commission.

The model COVID-19 IFAs have been developed to allow employing agencies to roster staff for extended shifts of 12-hours or 24-hours in emergency situations – by agreement with employees – where ordinary hours of work and shift patterns covered in the Social, Community, Home Care and Disability Services Industry Award 2010 (the Award), do not contemplate managing the types of health risks currently facing employing agencies associated with the COVID-19 pandemic. The model COVID-19 IFAs have also been developed to help employees and employers to more efficiently enter into local agreements by outlining standard terms and conditions which have been formulated via consultations with frontline service providers, employees, and the Department of Communities and Justice, which have been tailored to suit the residential care setting.

## Guiding principles

The following principles must guide the use of the industry agreed model IFAs for COVID19:

1. That it is voluntary for employees to enter into the agreed COVID-19 IFAs, and that they will suffer no detriment as a result of declining to enter into such an agreement.
2. That there shall be no diminution of minimum employee entitlements as a result of entering into the COVID-19 IFAs.
3. That wherever possible, the standard conditions of the Award are utilised to respond to Covid-19 related issues, and that activating the COVID19 IFAs will be a measure of last resort by employers.
4. That the flexibility arrangements covered in the model COVID-19 IFAs come to an end on the date that the current public health orders relating to infection control cease.
5. That all placement decisions made in response to COVID-19 issues, are in the best interests (including health needs) of the child or young person directly involved, and other children and young people in the care of the agency who are also affected by the decision.
6. That all decisions made in response to COVID-19 issues address the relevant work, health and safety requirements of the employee directly involved, and other employees affected by the decision, and are fair and industrially compliant.

7. That consistent with state and federal government health advice, the model COVID-19 IFAs provides extended shift options, related entitlements and new allowances, which recognise the need for contact between clients and different employees working in residential care homes to be minimised, and the additional risks posed to employee's safety and wellbeing during this period.
8. That as part of utilising emergency staffing options outlined in the COVID-19 IFAs attached to this Guideline (see Appendix 1, 2) the following conditions must be adhered to:
  - a. Employers must not roster an employee to perform consecutive 12-hour shifts for a period greater than 7 days, and where an employee is rostered for 7 consecutive 12-hour shifts, they must provide the employee with 7 rostered days off before rostering them on again for another consecutive period of 7 x 12-hour shifts.
  - b. Employers must not roster an employee to perform consecutive 24-hour shifts for a period greater than 3 days, and where an employee is rostered for 3 consecutive 24-hour shifts, they must provide the employee with 4 rostered days off before rostering them on again for another consecutive period of 3 x 24-hour shifts.
  - c. Employers must append the employee's anticipated roster for the relevant period to the COVID-19 IFA.
  - d. In undertaking either 12-hour or 24-hour shifts, employees are to be paid overtime in accordance with the overtime and penalty rates outlined in cl. 28 of the Award.
  - e. When rostering employees for either 12-hour or 24-hour shifts, employers must be guided by the conditions contained in the Award relating to the provision of meal breaks and reasonable rest breaks for employees.
  - f. Employers must only roster employees to undertake 24-hour shifts where a sleepover period is viable given the needs and behaviours of the relevant client(s) being cared for, and employees are to be paid a sleepover allowance in accordance with cl.25.7 of the Award.
  - g. Employers must ensure that an additional employee is rostered to perform support duties for a reasonable period for each 24-hour shift, to assist employees undertaking a 24-hour shift with particular duties and to provide them with a reasonable rest period.
  - h. Employers must closely monitor the health and wellbeing of employees undertaking consecutive 12-hour or 24-hour shifts and provide them with additional practical supports as necessary.
  - i. In exceptional circumstances where an unanticipated event occurs, an employer may determine that it is necessary to roster an employee for a consecutive period greater than the periods outlined in 8(a) and 8(b) above. In such circumstances, the employer is to notify the ASU of relevant shift details (excluding personal information relating to clients and employees) as follows:
    - i. the rostered shift period including the number of consecutive days rostered, the length of the shift, and the number of employees involved
    - ii. the intended duration of the 'out of guidelines' rostered shift for each involved employee.
    - iii. The reasons why the options outlined in the model COVID-19 IFAs were either unavailable or inappropriate to address the particular health and welfare issues arising from the unanticipated event
    - iv. the nature of the consultation which occurred with the relevant employee(s), and
    - v. the outcome of the risk and safety assessment undertaken to support the 'out of guidelines' rostering decision, including the nature of the safeguards and supports put in place to maintain the safety, welfare and wellbeing of the involved employee(s).

9. That employees who enter into a COVID-related IFA are better off overall as a result of doing so.
10. That agencies directly consult their employees on COVID19 related measures prior to the introduction of the COVID19 IFA, which includes providing employees with contact details of their industrial representative, the Australian Services Union. In consulting employees about entering into a COVID-19 IFA, they should be provided with a copy of their anticipated roster for the relevant period.
11. That there is no diminution in the quality of services provided by residential out-of-home care agencies following the cessation of the COVID-19 public health orders as a result of these special arrangements.

### **Providing a safe system of work while COVID-19 restrictions are in place**

All residential out-of-home care agencies need a plan for dealing with COVID-19. Employers should ensure that there are appropriate measures in place that will decrease the number of infections within the workplace/residential care home setting and facilitate a prompt and effective response to any matters which arise that require a health and safety response.

Any use of the COVID19 IFA between employers and employees must be aimed at maintaining service continuity in the COVID-19 environment and should be underpinned by, but not be limited to, the following safeguards and measures being in place:

#### **Consultation**

- The employer consulted with union representatives and workplace delegates about its plan to manage and support workers (see also service continuity plans below).
- All information and updates related to COVID-19 in the workplace have been made available to all employees.
- Employees have been made aware of their rights at work during the period that COVID-19 public health orders are in operation, including what work they can and can't be directed to perform; and information about offers made to staff to take up different working arrangements.
- Employees have been consulted about and have influenced the development of service continuity plans prepared by their employer.
- Employees have been provided with the contact details for their union to clarify any questions or concerns they may have about their rights at work.

#### **Training and support**

- Employees have been provided with adequate training on hygiene and infection control.
- Employees have been provided with training about responding to potential scenarios that may arise in a residential care setting if the virus or symptoms of the virus are detected (including managing non-compliant clients).
- Information about safe hygiene practices in the workplace is readily available.
- Safe rostering practices are in place, including providing employees with sufficient breaks, preparation time, adequate supervision, support and opportunities for debriefing.
- Employees are provided with practical supports to maintain their physical and mental health and broader wellbeing.
- Employees have access to information about vicarious trauma (including via group supervision and training sessions).
- Other practical supports are provided to employees to help maintain their mental health and wellbeing during this time, especially if they are undertaking extended duties.

## Workplace cleanliness and hygiene

- Employees have access to hand washing facilities and other products which support good hygiene, such as hand sanitiser.
- The 'workplace' (e.g. residential homes, vehicles and office areas) is regularly cleaned and sanitised to an appropriate standard.

## Management and plans to control risks and support the workplace

- Service continuity plans outline what action will be taken if the workplace is exposed to COVID-19 or a probable or suspected case of COVID-19 requiring quarantining of clients and/or employees.
- There is a clear reporting procedure in place for employees to notify their employer if they're feeling unwell, have been potentially exposed to COVID-19, and ongoing reporting requirements to their employer about their health.
- There is a clear reporting procedure in place for employees to notify their employer of when a client is feeling unwell and may have been exposed to COVID-19, as well as ongoing reporting requirements relating to their condition and medical progress.
- Clear arrangements are in place to support social distancing and limit unnecessary contact within the workplace/residential home setting.
- Risk assessments are undertaken relating to the placement of individual employees with clients in the context of the risks posed by the COVID-19 virus.
- Individual behaviour support plans are updated to address any risks posed by individual client behaviours or illness or potential illness.
- Employees are asked appropriate screening questions prior to household groupings being determined.
- Homes have adequate space for self-isolation and quarantining of clients where necessary.

## Personal protective equipment (PPE) and first aid

- Having regard to its general availability in the community, and when required, employees are provided with their own, individual personal protective equipment (PPE), e.g. disposable face masks.
- If PPE or tools needs to be shared, they are regularly cleaned and disinfected by the employer to an appropriate standard.
- All first aid kits in residential homes have been and are regularly restocked.

## Pay and conditions

- Employers make clear that special leave provisions are available for workers who are sick and/or need to self-isolate – see cl.9 of the model Covid-19 IFAs.
- A clear process for taking leave and applying for workers' compensation is readily available to all employees.