

Know your rights at TBS: Entitlement to access Flex leave

The CPSU NSW has received concerns from members about a lack of access to the flexible-working-hours entitlement that is set out in The Benevolent Society Copied State Awards 2017, and in particular Clause 21 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.

We encourage all members to familiarise themselves with their entitlements. You can find a copy of your award conditions [HERE](#).

The Flexible Working Hours award clause applies unless there is a local agreement in place, there are some exclusions to accessing flexible working hours contained in clause 21.4.1 such as working a 38-hour week, having permanent standard hours or working according to a shift roster.

You should not forfeit credit hours, or work unpaid.

We refer also to clause 21.1 which provides the parties to this award are committed to fostering flexible work practices with the intention of providing greater flexibility in dealing with workloads, work deadlines and the balance between work and family life. All parties are committed to managing time worked to prevent any forfeiture of credit hours accumulated under a Flexible Working Hours arrangement.

The onus is on management to advise what the operational requirements are and properly consult with staff. This includes how billable hours impacts your access to Flexible Working Hours.

Your Award conditions cannot be changed at the whim of managers

In a recent ruling in the Industrial Relations Commission with regards to Flex Time in NSW Police the Commission took a dim view of attempts to artificially limit access to the entitlement:

“It is not open to individual supervisors to impose additional arbitrary limitations on an employee’s right to accrue flex leave.”

Fleming v Commissioner of Police [2017] NSWIRComm 1023 (paragraph 59)

Any member who is denied access to flexible working hours should seek written clarification from their manager stating the reason why, and ask if there is a local agreement in place that supplements the Flexible Working Hours award clause.

Your terms and conditions will continue under the Copied State Award until an Enterprise Agreement is negotiated or other Fair Work Act transfer conditions are met.

If members have concerns about the response, or are unable to obtain a written response, they should [contact the CPSU NSW](#).

A union workplace is a fairer workplace – what can you do?

- Not a member? Get involved by [signing up!](#)
- Already a member? Get a colleague to join the CPSU!
- Get more involved by becoming a local union delegate or contact.

