



Fact Sheet

Right to Disconnect

Employees have the right to refuse contact outside their working hours, unless that refusal is unreasonable. This resource outlines what employees and employers need to know about refusing to monitor, read, or respond to contact, or attempted contact, from an employer or third party.

An employee's statutory 'right to disconnect' from work related contact outside their working hours came into effect on 26 August 2024.

The right does not prohibit employers from contacting their employees, nor does it prevent employees from contacting one another, including across time zones.

When is refusal unreasonable?

Several factors must be considered when determining whether an employee's refusal is unreasonable. This includes (but is not limited to):

- The reason for the contact.
- Whether the employee is compensated for remaining contactable outside of ordinary hours.
- How the contact is made.
- The level of disruption the contact causes the employee.
- The employee's role, level of responsibilities and remuneration.
- The employee's personal circumstances.
- The employee's ordinary working hours.

Why do I need to know?

An employee's right to refuse employer or work-related contact (or attempted contact) out of hours is a workplace right, so general protections in the *Fair Work Act 2009* apply.

What do I need to do?

Parliamentarians and their staff should discuss and agree on the expectations and requirements of out-of-hours contact and additional hours of work. Parliamentarians should review and update any written materials that set out the employee's role and responsibilities, to accurately reflect expectations to be contactable outside of hours. The PWSS can assist with this.

Example 1

Mr Singh is a Minister, and Sarah is their Chief of Staff. At 8pm on a Thursday evening, Mr Singh is reviewing a number of complex and urgent briefs and requires further information before agreeing to the recommendations. Mr Singh attempts to call Sarah, but she does not answer, so he sends two follow-up text messages requesting a call back as soon as possible. Once Sarah sees the messages, she returns his phone call and provides the requested information. This contact would be considered reasonable, given Sarah is in a senior position and receives an allowance to work reasonable additional hours, and the contact was necessary to complete time-sensitive work.

Example 2

Anh is an EOB and cares for his elderly father. Anh has a flexible working arrangement and works part-time hours from 9am to 3pm to facilitate his caring responsibilities. At 4:30pm on a Monday afternoon, Anh's supervisor, Michael, sees an urgent email from a constituent that Anh has been assisting. Michael weighs up whether to contact Anh, noting the urgency of the request and his familiarity with the constituent's situation. Michael tries calling Anh however, he does not answer. Michael proceeds to contact Mary, another EOB, and asks her to address the query. The next day, Michael provides Anh with an update on Mary's interaction with the constituent. Anh confirms he is always happy to be contacted for urgent matters, but he can't always respond due to his caring responsibilities.

Further information and support

For further information and support, please contact the PWSS HR Advice team at HR@pwss.gov.au or 1800 747 977.