

Flexible Work Requests – Is Your Organisation Ready?

From 1 January 2010 the Fair Work Act provides for the introduction of the National Employment Standards (NES). The standards set out the minimum provisions for a number of conditions of employment that must be provided to all employees covered by the national system. While many of the entitlements are consistent with current practice such as a 38 hour week, 4 weeks annual leave and public holidays, there are some entitlements that will be new to many organisations.

One of the most significant items is the ability for employees to make a request to the employer to provide flexible work arrangements to accommodate obligations the employee has caring for a child. While this is generally restricted to children up to school age, it also provides for parents of children with a disability to apply for flexible arrangements until the child reaches 18. Flexible arrangements could include part time work, job share arrangements, working additional hours on some days to provide for shorter hours on other days, or home based work.

A request for flexible work arrangements can only be refused on “reasonable business grounds”. While this is yet to be defined it could include the impact of these arrangements on workplace productivity and efficiency or customer service. It may also be the employer is unable to find a suitably trained person to work the required hours. While the reasonable grounds are quite broad it is our view that the employer will need to demonstrate the reason clearly and be able to show they have looked at a range of options and have undertaken analysis of what would be required to implement flexible arrangements. All options need to be reviewed and tested before refusing such a request.

It is also important to understand that the Fair Work Act also makes it unlawful for an employer to discriminate against an employee on the grounds of their family or carer’s status.

While the introduction of this requirement may seem onerous there can be advantages for looking at flexible work arrangements in a positive way. It could enable you to retain trained and skilled employees who might otherwise leave your organisation. Flexible arrangement may also reduce absenteeism and improve efficiency by retaining key people. Many organisations will see this as an opportunity to differentiate themselves from other organisations and be seen as “best practice”.

What do you need to do now?

- Make sure your employment policies reflect the situation from 1 January and update your induction process to make employees aware of your policy. Your policy needs to demonstrate your organisations flexibility in this regard when hiring new staff.
- Establish mechanisms and procedures for staff to make an application for flexible work arrangements.

- Review your structure and roles to determine where this could be an advantage to your business.
- Review the situation of those employees currently on parental leave who may be looking for an opportunity to return on more flexible arrangements. What roles did they have prior to leave and how can you accommodate their return under these arrangements should they be requested.
- Undertake some education for key staff to make sure they understand the changes and how they will respond to requests from their staff.
- Make sure your policies for training and development can accommodate those on flexible work arrangements.
- Establish a process to review applications for flexible hours that will satisfy the “reasonable grounds” test.

It is critical to be prepared for this change now. There are a number of actions you need to take and this change can be used as an opportunity to build on policies that you may have that already provide some flexibility.

The Strategic HR Team at Morton Philips can review existing policies and develop updates and prepare the communication necessary to manage this change. Having a clear policy in place will be important but making sure supervisors and managers are trained to manage requests is even more important. Make sure your organisation is ready.

- Richard Altman



Richard Altman has held senior human resources roles in retailing, merchant banking, manufacturing and construction for the last 25 years, and has considerable experience within Australia and the Asia Pacific region.

Richard's experience has been across all aspects of human resource management including:

- *Recruitment and selection*
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