

RAINEY COLLINS LAWYERS

Employers' Guide to Flexible Working Arrangements Requests

From 1 July 2008 employees who have worked for you for 6 months or more can request changes to their hours, days or place of work if they have the care of any person. The employer must consider the request and can only refuse the request on certain grounds related to the business.

If you receive a request from an employee:

1. Check that they qualify. Have they worked for you for 6 months?
 - Have not made another request in the last 12 months; and
 - Have the care of any person? The person does not have to be related to them and there is no minimum level of care necessary.
 - Note that members of a collective employment agreement cannot have a flexible arrangement contrary to the collective agreement.
2. If they do not qualify you can refuse their request and you must notify them of the refusal and why.
3. If they do qualify or you decide to consider their request anyway then you should consider whether there are grounds to refuse the request.
4. The grounds for refusal are:
 - Inability to re-organise work among existing staff;
 - Inability to recruit additional staff;
 - Detrimental impact on quality;
 - Detrimental impact on performance;
 - Insufficiency of work during the periods the employee proposes to work;
 - Planned structural changes;
 - Burden of additional costs;
 - Detrimental effect on ability to meet customer demand.
5. You must answer the request within 3 months.

6. If refused you must provide the ground for refusal and an explanation of the reasons for that ground.

If an employee is not satisfied with your decision they can ask a Labour Inspector to assist resolve the matter.

The employee can seek mediation if the Labour Inspector is not able to resolve the issue.

If mediation does not satisfy the employee they can refer the matter to the Employment Relations Authority.

Failure to comply with the provisions can result in a penalty of up to \$2,000 payable to the employee.

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