

RAINEY COLLINS

LAWYERS

Employers' Guide to Flexible Working Arrangements Requests

Employees can request flexibility in their working arrangements. This could be changes such as to their hours, days or place of work, shared working etc. 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 you should consider whether there are grounds to refuse the request.

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; and
- Detrimental effect on ability to meet customer demand.

Note that members of a collective employment agreement cannot have a flexible arrangement contrary to the collective agreement.

An employee can give reasons for their request, but is not obliged to provide a reason.

There are special rules regarding short term arrangements for people dealing with family violence.

You must answer the request as soon as possible and within 1 month.

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 payable to the employee.