

The proposed draft standards would seem to be highly inequitable. The reason for this is that the standards will relate to those covered by Modern Awards as well as those who are not covered by Modern Awards, yet all the flexibility is only given to those employees covered by an Award.

Accordingly while anyone who come under an Award will be able to arrange with their employer to have flexible working hours or have their annual leave paid out. These are potentially valuable to a number of people who are supposedly (based on the description of those not likely to be covered by modern awards) able to negotiate agreements with their employers, yet those people will likely be prevented for negotiating such an outcome as the Draft Standards specifically mention that it can only be done in a Modern Award.

I would suggest that the draft provisions need to be changes to indicate that employees not covered by an Award can negotiate the same flexibility that can be negotiated in an Award with their employer.

It would make no sense to have every person covered by an Award AND a set of minimum standards. If there are problems with an emerging industry it would seem simpler that there be provision for Fair Work Australia to make a determination that the two flexible options are not be allowable in that industry until a determination of an Award is made.

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