

NES Exposure Draft submission
GC 31
Workplace Relations Policy Group
Department of Education, Employment and Workplace Relations
GPO Box 9879
CANBERRA ACT 2601

Comments on the National Employment Standards (NES)

Requests for Flexible Working Arrangements

On behalf of Diversity Dimensions Pty Ltd I would like to submit our comments and thoughts on the Exposure Draft of the National Employment Standards (NES) in relation to the proposed “Request for Flexible Working Arrangements” entitlement.

As an Australian diversity consultancy we have operated in the area of parental leave and flexibility for over 10 years and greatly applaud the government on the development of the NES and this entitlement. Below is a summary of our thoughts on the key areas of this entitlement.

Kind Regards

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Diversity Dimensions Pty Ltd

Requests for Flexible Working Arrangements

Objective of entitlement- Points 58 and 59.

Comment

We strongly support the governments commitment to promoting measures that will help working families balance work and family responsibilities, enable business to manage their workforce and encourage greater workforce participation.

Suggestion

Currently the scope of the Exposure Draft for this entitlement focuses on certain employee's rights to request flexible work arrangements from their employer until their child reaches school age. While we acknowledge the challenges faced by working parents with young children, we believe that the scope for employees to request flexible work arrangements should be broadened to include;

- Employees with a wider range of caring and dependent issues.
- Dependants including all eligible children and adults (including all school age children and elders).

Reason

From our experience working with a wide range of organisations and from the changing world of work statistics in Australia, the issues relating to employees with young children are just one facet of the Australian workplace.

Over the past few years we have successfully developed and launched a Flexible Work Package which includes a practical Flexible Work Toolkit, 5 Step Flexible Work Process and training courses. We currently run "Negotiating Flexible and Alternate Work Practice Arrangements" training sessions for Managers and Employees within organisations all over Australia. We see employees from all walks of life and with different reasons to seek flexible work arrangements attend these sessions. Some participants attend to gain practical tips and strategies to negotiate flexible work arrangements because they have children (including primary and high school age children), others because they have elder or disability care issues and responsibilities and others attend because they want to work flexibly and wind down prior to retirement.

From our experience, we believe that with the ageing population the issues faced by employees with ageing and elder care responsibilities and issues will increase.

We also believe that flexible work arrangements help meet the needs of a broad range of employees, not just those with small children. Additionally flexible work arrangements

have positive impacts on employee retention and participation across a diverse range of employees and in a wide range of industries.

Objective of entitlement- Points 60, 61 and 74.

Comment

We support the governments consideration that implementing flexible work arrangements is best dealt with at the workplace level.

An evaluation of outcomes from our flexible work training sessions concurs with the United Kingdom experience that by encouraging employees and managers to discuss and negotiate flexible work options has been successful in promoting flexible work arrangements that meet the needs of the individual and the business. We also agree with the establishment of a process for encouraging discussions between employers and employees.

Suggestion

We would suggest providing practical tools and resources around the “how to” will assist employees and managers in the development of flexible work proposals, aid communication/discussion and improve implementation and maintenance of flexible work arrangements.

Reason

From our work in this area we notice the following;

1. Employees and managers often don't know how or where to begin the flexible work journey.
2. The level of tools and resources varies across organisations. From our experience flexible work policies provide some information to employees and managers but are not enough and are rarely practical.

Outline of the entitlement- Point 63.

Comment

We also agree and support the government's proposal that employees must make the request in writing, provide details of the arrangement sought and reasons for the change.

Suggestion

We would suggest providing practical tools and resources to employees that will assist them in the development of a business focused flexible work proposal that will support their request flexible work arrangement.

Reason

From our work in this area we notice the following;

1. Employees often find it much easier to consider flexible work arrangements from their personal perspectives but often can find it challenging to consider how the arrangement might work from a business perspective.
2. Employees often don't know what to consider and what to include in their proposal.
3. Employees are not always prepared for the discussion and are unsure of how to handle a situation if a manager says "No" to their proposal.

Outline of the entitlement- Points 64, 65 and 66.

Comment

In relation to the need for employers to give the employee a written response to the request within 21 days, while we understand the need for a response, we feel that there should be more flexibility with the time frame.

Suggestion

We would suggest setting a longer time frame to enable employees and their manager more time to discuss the proposal and to suggest modifications prior to sending a response.

Reason

In the case of an employee who seeks to negotiate a flexible work practice upon return from parental leave, if an employee was to put in a written request prior to commencing parental leave or in the early stages of the leave period, it may not be reasonable or practicable for a business to provide a reasonable business grounds response within the 21 day time frame due to the timing of the request and length of the leave. In the case of flexible work arrangements upon return from parental leave we would suggest that formalised discussions commence at least 3 months prior to the employees return and that a response and reasons be provided in writing at least 6 weeks prior to the employees return. We also support the need for employers and employees to stay in

touch during a period of parental leave to assist with negotiating flexible work arrangement and transitioning back to the workplace.

In the case of all other reasons for requesting a flexible work arrangement, we would suggest that the process including submitting the request, discussion, modification and sending a response be done over a 3 month period. Lengthening of the time frame would also assist with Point 73 in circumstances where the employer requires more time to discuss modifications with the employee instead of refusing the request.

Outline of the entitlement- Points 70.

Comment

In relation to “responsibility for the care of the child” we support the intention of the government to acknowledge “parent-like relationships”.

Suggestion

We would like to suggest broadening the responsibility to also include “primary” care.

Reason

From a business perspective, given the complex and changing nature of families and relationships it may be worth considering how employers will distinguish employees who may have the responsibility of a child versus those who have primary carer responsibility of a child. Another aspect to consider may be the frequency of the responsibility. For example, an employee may only have responsibility for a child on an irregular basis while another employee has primary care of a child on a regular basis.

Outline of the entitlement- Points 71.

Comment

In relation to “reasonable business grounds” we support the intention of the government to provide general information to employers on what constitutes reasonable business grounds.

Suggestion

Developing web based information, conducting workshops, providing regular case updates and a confidential telephone employer advice line.

Reason

We would suggest providing a variety of support mediums to business to suit varying business needs.