

FLEXIBLE WORKING



Changes to the Employment Relations Act (Employment Relations Amendment), have recognised the changing way in which the NZ workforce operates. The changes to the ERA around flexible working arrangements are captured by Part 6AA of the Act. Specifically the amendments now provide that an employee may make a request for flexible working arrangements at any time. Previously an employee had to be employed for 6 months before they could make a request. There is also no limit on the number of requests an employee may make. Employees can apply for flexible working arrangements for any reason. You don't have to tell the employer the reason for the request, but it helps to provide as much information as possible to help the employer make their decision. You can request flexible working arrangements, but the employer does not have to agree. There is a process you need to follow when applying to work flexibly and you should first check whether your employer has a policy on flexible working arrangements which outlines how you should apply.

Your request needs to be in writing and must include the following information:

- ✓ Your name;
- ✓ The date;
- ✓ A statement that you are making the request under the law;
- ✓ An explanation of the working arrangement you want and whether the new arrangement will be permanent or for a period of time;
- ✓ When you'd like the new arrangement to start, and when it will end, if for a fixed period
- ✓ How the arrangement will help you;
- ✓ Explain any changes your employer may need to make to their arrangements.

There is no set format for the request and it can be done by letter, email or by filling out a form your employer might already have for this purpose.

Employers are required to consider each request for flexible working arrangements, and must respond in writing as soon as possible, but no later than one month after receiving the request.

Employers can only refuse requests for certain reasons and if they do refuse your request they must provide reasons why. The employer must notify you whether the request has been approved or refused.

A request can only be refused if it cannot be accommodated on one of the following grounds:

- ☒ Inability to reorganise 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.

If refused, the notification must:

- ☒ State that the request is refused because of a ground specified (below); and;
- ☒ State the ground for the refusal; and;
- ☒ Explain the reasons for that ground;
- ☒ It is not acceptable simply to say it is declined/refused.

Refusals are able to be challenged by employees, and the potential for Personal Grievances exist. The request must be refused if any request is inconsistent with a Collective Agreement you are party to.

If an employer refuses a request, or does not deal with it correctly, the matter can be referred to a Labour Inspector, then to mediation and then to the Employment Relations Authority.

Attached is an example letter request for flexible working arrangements.

(date)

(add name & contact details of applicant)

(add name of manager)

(Employer)

(add site/address)

Dear *(add first name)*

REQUEST TO VARY WORKING ARRANGEMENTS

The purpose of this letter is to request a variation to my working arrangements under Part 6AA (Flexible Working) of the Employment Relations Act 2000.

The variation I am seeking is as follows; *(note: from 6/3/15 employees are able to make a request at any time, and as many times as they wish for any reason/s)*

(delete any that don't apply)

Changes to my hours of work

Changes to my days of work

Change to my place of work (for example, at home or a different worksite)

(Indicate the period/status of the request i.e. from X to Y date or permanently – don't forget to indicate the start date)

The reason/s for my request are *(add further relevant information, if unsure you can find more information at the MBIE website xx)*.

The new working arrangement will enable me to (eg to stay at home with my young child on Mondays due to lack of available childcare).

The new working arrangement will affect my employer/colleagues in the following way (eg I will not be able to attend staff training on Mondays).

I think the effect on my employer/colleagues can be dealt with by (eg attending the staff training on Tuesday instead).

I understand (insert employer name) is required to deal with this request as soon as possible, but not later than one month after receiving it.

I look forward to your response.

Yours faithfully

(add name, and sign)