

Flexi-time: The pros and cons

H asks what flexi-time is and whether he has to agree to an employee's request for flexible work hours.

The intention behind the flexi-hours legislation is to change employers' attitudes towards more flexible working arrangements and to promote improved work-life balance for employees.

Under the legislation, employees have the right to apply for flexible or part-time hours where they have, among other things, full-time care of children under 5, or disabled children up to the age of 18.

Before the legislation, many employers would have considered proposals for flexible working arrangements from valued employees, so what has changed?

The legislation imposes a duty on all employers to consider every proposal. It also requires employers to demonstrate a clear business case for turning down a request if the decision is challenged.

Such reasons might be an inability to re-organise work among existing staff or an inability to recruit additional staff to accommodate changes.

As an employer, if you receive a request for flexi-hours there are several steps to be taken:

■ Check whether the employee qualifies.

Have they worked for you for six months? If not, they don't qualify.

Have they made a previous request within 12 months of the



LEGAL MATTERS

ALAN KNOWSLEY

RAINEY COLLINS LAWYERS

current one? If they have, they don't qualify.

Have they the care of any person? The person does not have to be related to them and there is no minimum level of care necessary.

■ If they do qualify, or you decide to consider their request anyway, you should consider whether there are grounds to refuse their request. Grounds for refusal are:

Inability to re-organise work among existing staff.

Inability to recruit additional staff.

Detrimental impact on performance.

Insufficient 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 they do not qualify, you can refuse their request and must notify them of the refusal and reasons for it.

■ Regardless of outcome, you must answer the request within

three months.

■ If you decide to refuse the request, you must provide your employee with details of the ground for refusal and an explanation of the reasons for applying that ground.

You should be aware that failure to follow the prescribed procedures can result in a penalty of up to \$2000, which is payable to the employee.

For some employees it will also be relevant to note that members on a collective employment agreement cannot have a flexible arrangement contrary to the collective agreement.

It may feel like just another process to make life hard for employers. It is hoped, however, that employers can also benefit from encouraging a work-life balance for staff.

Research has shown that employees who are supported by their boss in a flexible working environment are more committed and productive. Businesses have also reported drops in absenteeism and improvements in staff retention.

■ Following the article on wills we are running a competition to find the best excuse for not having a will. Register your excuse at raineycollins.co.nz.

The "dog ate it" excuse has already been used.

■ Column courtesy of Rainey Collins Lawyers. Phone 0800 733 484. If you have a legal inquiry you would like discussed, email Alan on aknowsley@raineycollins.co.nz.