

# Q&A

# FLEXIBLE WORKING ARRANGEMENTS

All employers (including DHBs) are required by statute to consider an employee's request for more flexible working arrangements. This includes a request to change hours of work, days of work, or place of work.

This right is set out under Part 6AA of the Employment Relations Act 2000.

Last year the Government made it easier for employees to request such changes. Previously flexible working arrangements only related to the need to care for somebody. No such restriction now applies. You may simply want to change your hours of work for a better work-life balance.

Your employer is obliged to consider your request within one month and can only reject your request for operational reasons such as an inability to reassign duties or recruit additional staff (a full list of permitted reasons can be found at Part 6AA of the Employment Relations Act 2000).

Your request needs to specify for how long the requested change in hours would apply (including if permanent), when you wish the change to take effect, and explain what changes the employer may need to make if your request is approved.

The rationale behind the Government extending access to more flexible working arrangements is to support greater participation in the labour market, by encouraging employees to stay in the workforce when they might otherwise feel compelled to withdraw completely because of their employer's inflexibility over alternative arrangements.

## WHAT KINDS OF WORK ARRANGEMENTS CAN I REQUEST BE CHANGED?

You can request changes to hours of work, days of work, or place of work. A comprehensive list of examples of flexible working arrangements can be found here: <http://employment.govt.nz/er/bestpractice/worklife/flexibleworkguide/index.asp>

## DOES A CHANGE ONLY MEAN A REDUCTION IN HOURS?

No. A request could be for an increase in hours (or a change in work days).

## WHAT INFORMATION DO I NEED TO INCLUDE IN A REQUEST FOR A CHANGE IN WORKING ARRANGEMENTS?

As a minimum:

- your name
- the date on which the request is made
- that the request is made under Part 6AA of the Employment Relations Act 2000
- for what period of time you want the change to apply, including if it is a request for a permanent change
- the proposed commencement date for the change (and end date if for a fixed period of time).
- an explanation, in the employee's view, of what changes, if any, the employer may need to make to the employer's arrangements if the employee's request is approved.

## DO I HAVE TO GIVE A REASON FOR WANTING TO CHANGE MY HOURS?

No, you don't, and not giving a reason is not sufficient reason for the employer to turn down your request. Nevertheless, an application that explains why you need or wish to change your working arrangements may be helpful.

## CAN THE EMPLOYER REFUSE MY REQUEST?

Yes. But only for one of the following grounds:

- an inability to reorganise work among existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance

- insufficient work during the periods the employee proposes to work
- planned structural changes
- the burden of additional costs
- a detrimental effect on ability to meet customer demand.

The employer must provide an explanation as to why these grounds apply.

## HOW LONG WILL IT TAKE FOR MY REQUEST TO BE CONSIDERED?

The employer must accept or decline your request as soon as possible but within one month of your application.

## WHAT HAPPENS IF I AM UNHAPPY WITH THE EMPLOYER'S DECISION?

If you believe your request has been unfairly rejected, you may contact a member of the ASMS industrial team for further advice. There are mechanisms available to ensure all requests for flexible working arrangements are properly considered.

## IS THE PART 6AA PROCEDURE DIFFERENT FROM THE RIGHT IN THE MECA TO REQUEST A CHANGE IN HOURS FOLLOWING PARENTAL LEAVE (CL. 28.(F))?

Yes. The MECA provision covers the specific circumstance of a request for reduced hours following a return from parental leave. The statutory Part 6AA process covers this and many other circumstances where flexible working arrangements are necessary or desirable.

## DOES THE PART 6AA PROCEDURE COVER THE SAME CIRCUMSTANCES AS DOMESTIC LEAVE?

No. Domestic leave is leave on full pay in the event of the illness or accident of a close family member. On the other hand, the Part 6AA procedure may lead to a variation in your hours of work (temporarily or permanently) and would normally result in change in salary.