

QUALITY FLEXIBLE WORK: INCREASING AVAILABILITY AND TAKE UP IN NEW ZEALAND

CONSULTATION RESULTS
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ABOUT THE CONSULTATION

Quality flexible work has become an important issue for New Zealand employers and employees. The Department of Labour has been investigating issues around flexible work and potential approaches to increase availability and take up in New Zealand workplaces¹, and has been working with the business sector, unions and workplace leaders to come up with practical ways to introduce and manage flexible work in workplaces.

In November 2006 the Department released the discussion paper *Quality Flexible Work: Increasing availability and take up in New Zealand* for public comment. The paper covered the key issues and what we know about flexible work in New Zealand and presented a range of approaches that could be used to increase availability and take up. These covered information and promotion (for both employers and employees) through to regulation and partnerships. The paper included a range of questions for response, addressing current difficulties with flexible work arrangements, the challenges for workplaces and what approaches would work. The paper was developed in collaboration with Business New Zealand, the New Zealand Council of Trade Unions and the Equal Employment Opportunities Trust.

The discussion paper and consultation process was promoted widely through various networks including business, government and NGO and voluntary/community sectors, and with specific population groups including families, Maori and Pacific Island people and people with disabilities (mainly through support and advocacy groups). The consultation process was advertised in the press and through specialised newsletters and made available on the Department's website. The paper was direct mailed (through post and email) to around 1000 individuals, organisations and groups. Response was facilitated by an online response form. Department officials also talked with several groups directly about the issues including the Pacific Community Reference Group (through the Ministry of Pacific Island Affairs), the non-government sector, the public sector, NACEW, the Families Commission and the Small Business Advisory Group. It was intended to hold a number of focus groups with employees, to be organised through the NZCTU. Unfortunately due to time and resource constraints this did not happen.

At the same time as the discussion paper was released a campaign was initiated by the Coalition for Quality Flexible Work. The coalition is made up of business, professional and legal groups; community organisations; family advocacy organisations and unions (see Appendix 1) and they responded strongly to the consultation.

¹ As part of the Government's Work/Life Balance Programme and the Choices for Living, Caring and Working Action Plan and as directed by the Transport and Industrial Relations Committee of Parliament.

ABOUT THE RESPONSES

The Department received 777 valid responses to the discussion paper. Of these, 477 or 61% were form responses supporting “legislation presently before Parliament, in the form of a private member’s bill by Green MP Sue Kedgley, with the provisions extended to cover all employees”². Of the remaining 300 responses, 169 (22% of total) were from individuals and 131 (17%) from organisations. One response was received from a team. For the purposes of this summary this response has been included with individuals. Of these 300 responses, the major sectors represented were Government Administration and Defence, Education and Health and Community Services (65% of individuals and 43% of organisations).

In terms of organisation type, 25% of organisational responses came from the public sector (including local government), 24% from community groups and non-government agencies, 20% from large businesses, 11% from business representative organisations/industry groups, 10% from small/medium businesses, 9% from trade unions and 1% from other organisations.

² From the form *Submission to the Department of Labour on Quality Flexible Work*.

SUMMARY OF COMMENTS

This report summarises the key findings for each of the questions from the response form. Responses from individuals and organisations were analysed separately. In general there were no appreciable difference between responses from different sectors and organisation types. Questions 6 and 7 are the exceptions to this and the report summarises these differences.

In general respondents agree that flexible work is important and, to be successful, it needs to work for employers and employees. While a number of respondents say that flexible work is already happening across New Zealand, there is a consensus that more could be done to increase availability and take up. 93% of all respondents support one or more of the approaches to increase availability and take up proposed in the discussion paper. If you exclude the 477 form responses, 83 % of responses support one or more approach. Of the respondents that didn't nominate an approach, most agreed that quality flexible work was an important issue.

The most critical components identified by respondents to making flexible work arrangements work are:

Communication

Good communication between employers/managers and employees or prospective employees is very important to make sure that all parties understand:

- the benefits of flexible work, what needs to be managed and how it is managed,
- the processes to be followed when considering flexible work,
- the range of options available and their suitability for particular work environments,
- the impact of options on individuals, teams and organisations, and
- progress and monitoring of flexible work initiatives.

Information supported by structures and processes

Many respondents raise the need for easily accessible information that is tailored to particular people within the workplace (for example employees or employers), to particular industries (for example the retail sector) or particular groups (for example people with disabilities or Pacific people). However to be effective, information needs to be coupled with effective workplace structures and processes. This will help people to find the right flexible work solution for their individual and workplace circumstances, and will help both managers and individual employees manage flexible work once it has been introduced.

Leadership and a supportive workplace culture

Leadership and a supportive workplace culture are important so that an organisation is seen to be supporting and promoting flexible work from the top down. If workplace cultures are supportive then employees will find it easier to ask for flexible work and managers will feel they have the tools and ability to

implement and manage flexible work. The need for champions across different industry sectors is also seen as vital.

The major **difficulties employees face** when asking for flexible work are based on a range of real or perceived fears that can make it hard for them to approach their manager or organisation. The culture of the organisation and the level of workplace or institutional support are also important factors. The need to maintain an adequate income and having the confidence to approach and negotiate with managers were also raised.

For **managers and employers** the main things that can make it difficult for them to manage flexible work arrangements are the need to maintain production and customer services standards, planning and monitoring work including budgets, managing staff effectively and maintaining managers' own work-life balance.

Respondents agree that there are **different challenges for particular sectors, types of work, occupations and work locations** but a common response is that the benefits of introducing flexible work outweigh any difficulties that may arise.

New Zealanders continue to be divided in their **views about the best approaches to increase the availability and take up of flexible work**. While many respondents support the provision of more information and resources for employers and employees, many believe that these on their own will not be sufficient to see appreciable changes in workplaces.

The highest level of support is for specific legislative provisions for employees' rights to request flexible work – all form responses and 58% of non-form responses supported this approach. In particular this approach is supported by all unions and the majority of community groups and individual responses. This approach also received the highest level of opposition (18% of non-form responses). In particular this approach is not favoured by most employers and business representative organisations/industry groups.

Those that support a legislative approach, feel that it is needed to legitimise the issue and provide a clear process and grounds for refusal that would help employees and employers. Those that do not support this approach feel that more active support through funding, training and partnerships are more likely to make the provision of information and resources more effective and be a more effective approach overall.

Many respondents give specific examples of how they as individuals or their organisation manages flexible work and a number of organisations mention the potential to introduce or extend flexible work in their workplace. Several indicate their willingness to support the promotion of flexible work in New Zealand.

There is general consensus that flexible work is important for all New Zealanders, not just parents or people with caring responsibilities. Quality flexible work is

important for individuals and organisations but also for families, communities (rural and urban) and the environment.

QUESTION 1

Do you think there is anything needed in your workplace to achieve quality flexible work arrangements and practices?

The main themes raised by both individuals and organisations are:

- understanding of the issues and solutions (by both employees and employers),
- clear processes,
- good communication and
- a supportive workplace culture.

Some organisations (mainly businesses) believe that nothing is needed as flexible work arrangements are already happening in many workplaces. Many individuals and some organisations believe that a specific legislated right to request flexible work is needed to provide a catalyst and framework for more employees to achieve quality flexible work.

Summary of responses from individuals

Management **attitudes, understanding and awareness** of flexible work can be improved. Respondents feel that:

- there is still a perception that flexible work practices for employees means that they are 'shirking' work
- more awareness is needed about employees and their commitments or responsibilities outside of work
- better understanding is needed of flexible workplace practices and its benefits and how to introduce and manage initiatives.

Clear **processes** are required to ensure consistency of approach and application. This could include:

- legislation to formalise flexible work policies and give validity and credence to the issue
- redressal mechanisms for when flexible work requests are refused
- monitoring systems to measure effectiveness of initiatives.

Workplace culture needs to change. Better **communication** and education on flexible work practices can improve dialogue between employers and employees and foster a culture where flexible work practices are encouraged.

Improving technology can support flexible work practices by allowing people to work remotely (for example remote access, broadband, suitable laptops and cell phones) and by allowing managers to plan, manage, monitor and measure initiatives.

Access to a **range of flexible work practices** is needed to suit particular circumstances for example varying start and finish times, flexible leave, and access to other facilities such as childcare.

Summary of responses from organisations

Some organisations believe nothing is needed as flexible work **already happens** - these arrangements are in place already across all sectors, some specifically to recruit and retain skilled workers and to deal with shortages of skilled workers. However the majority of respondents, even in those organisations where flexible work was happening, mention a number of critical components to successful implementation.

It is important that both employees and employers **understand the issues** including:

- the range of options available and what might meet particular needs; there is **no one size fits all** – types of work or workplaces may limit flexible work options available to employees. Examples cited included acute health services, schools, production line activities (see question 7 for more detail on this issue)
- the needs of particular groups for example parents or issues for particular cultures for example pacific peoples
- the pros and cons of arrangements for the individual, team and organisation.

Having **clear and consistent processes** are important – though for smaller organisation the more informal the better. As organisations grow there may be a need for more formality and structure. Things that may help include:

- having formal policies and/or guidelines on how to implement and manage flexible work
- making sure flexible work arrangements are compatible with other current policies for example health and safety
- learning from those that are doing it already – case studies, training, best practice
- incorporating into business planning and presenting clear business cases for flexible work (for example using scenario mapping)
- acknowledging that the process doesn't stop with decision – monitoring and reviewing for individual and team, trial periods may be useful
- developing measures for staff performance and ensuring that services and functionality are maintained
- looking at recruitment procedures and conditions of employment to see if flexible work arrangements can be incorporated.

There are things that **need to be managed** not the least ensuring employees are treated **equitably and consistently**. The other main issues mentioned were:

- health and safety – for example people working from home or working after traditional office hours, having two people on site at all times, having the right people there to cover machinery/production etc, having supervisors available
- IT and other infrastructure – having the right infrastructure and ongoing support available for example for remote working.

Organisations need to **"walk the talk"** – leadership, promotion of and buy-in to flexible work arrangements needs to be from senior management down.

Managers need to be given training and support, with management of flexible work as a potential competency criterion.

Communication is the key to success throughout the whole organisation. It is important to establish a dialogue between employers/managers/employees and within teams. Clear and effective communication can ensure that managers and employees know what is already available and can help them understand the issues and develop solutions at individual and team levels.

Some organisations believe that, over and above the previous issues, a legislated **right to request flexible work** is needed to provide a catalyst for employers and employees. It can also provide the framework for negotiating flexible work arrangements.

QUESTION 2

What do you think will help employees achieve the flexible work arrangements that they need?

The main themes raised were:

- knowledge and understanding of the issues and options,
- having a range of options available,
- access to information and resources,
- good workplaces structures and processes,
- good communication,
- leadership and
- a supportive workplace culture.

Some of these mirror the themes from question 1. Again some organisations (mainly businesses) believe that flexible work arrangements are already happening in many workplaces and therefore employees don't need assistance. Many individuals and some organisations believe that a legislated right to request flexible work is needed to provide the environment for requests to be taken seriously.

Summary of responses from individuals

Employees need to be able to **identify and articulate their needs** and understand the impact of their flexible work choices on the organisation. To do this they need **knowledge and understanding** of what flexible work options are available. They also need to be respectful of choices and initiatives other staff members make, and they need to act in an honest and trustworthy manner.

Organisations should have a **range of flexible work options** and other work-life balance initiatives available, that are flexible and innovate enough to meet the diverse needs of employees. Examples cited included: flexi hours, bringing children to work, part-time work, casual work, job sharing, school term working, on site childcare or access to crèches, easy access to services such as health centres, after school care, car parking, range of means of transport to work at peak times, after hours access to worksite and better and faster transport.

Access to **information and resources** is important including information about the full range of flexible work options and their benefits. Best practice examples are critical to publicise and highlight how flexible work practices can work effectively in an organisation.

Information should be supported with **workplace processes and structures** such as flexible work policies that are well developed and defined, and include processes for dialogue and negotiation, and clear guidelines to indicate requests will be considered appropriately. Resource support such as IT and equipment to allow working from home should be considered. Arrangements need to be regularly assessed and reviewed.

Dialogue and communication is important between managers and employees to understand and discuss flexible work options and deal with different expectations that can arise.

The **culture** of the organisation and **management practices** are critical to the success of flexible work arrangements. A number of respondents mention the need to change the culture or mindset of employers and to educate them about the benefits of flexible work. Employers should be seen to be encouraging and promoting the use of flexible work practices. Managers need to be role models and lead by example.

Many respondents feel that legislating for a specific **right to request flexible work** is required for the issue to be taken seriously. Reasons given were that this will promote recognition of work/life balance issues, will ensure fair consideration of requests to work flexibly, will take away the fear factor for employees who are not comfortable about asking for flexible work practices, and will minimise risk of discrimination.

Summary of responses from organisations

Responses covered a wide range of issues ranging from those relating to individual employees, through to workplaces and work organisation. Many of the themes are similar to those in Question 1.

Some organisations responded that **flexible work is already available** and therefore employees either didn't need assistance, they needed to choose the right role/job and/or that the tight labour market was already helping employees.

Employees need to understand and be able to clarify their needs and they may need some help to do this. Employees need to have an understanding of the organisation, the work and the workplace to fit their needs with business and organisational needs. There may be limits on the types of flexible work available depending on the nature of the business/work. Employees need to be aware that flexible work has to work for both them and the organisation.

Organisations should have a **range of flexible work options available**, appropriate to the work place and to suit individual requirements, with the ability to change arrangements if circumstances change.

Access to **resources** to assist with implementation and management, as with Question 1, is important including:

- information about best practice and practical case studies from employee and employer perspectives on solutions and management
- information about the range of options and where these may be appropriate
- policies and procedures or guidelines specific to organisations – good frameworks for managers and staff
- suggestions as to how to prepare a case for flexible work
- information about career/life choices (for example through Career Services)

- information about the existing provisions of Employment Relations Act.

Information needs to be coupled with clear **workplace structures and processes** including:

- clear guidelines and policies about availability and the process for requesting; trial periods and assessments
- processes for approving and timetabling by managers
- appropriate infrastructure and support such as IT to help arrangements work
- ability to design jobs and work arrangements for individuals and team
- management of specific issues for example security of staff (early morning, late at night, weekends); workloads of team; staff coverage.

Employees may need more **active support** including help understanding goals and work/life balance needs. **External support** may be helpful for employees and managers such as:

- external companies who can offer support around flexible work issues
- outside advocacy/mediation services
- opportunity for employees to seek advice and be represented by union
- support from employer organisations
- advice from other areas such as HR, employee assistance programmes or career consultants.

Along with information, effective **communication** is important so people know what is available and how to pursue their needs, so that information is kept up to date, and to provide the environment for open discussion between employees and managers. Consultation with management and team was raised as an integral part of the process of arranging flexible work.

Personal skills and characteristics will have an impact on an employee achieving flexible work including:

- confidence to ask, being able to express needs and confidence in process
- demonstrated reliability, trustworthiness
- demonstrated performance after arrangements have been made
- effective planning and organisational skills
- time and priority management skills
- willingness to reciprocate.

Skills and characteristics of managers are also important including:

- being supportive of employees and team
- good communication and consultation skills
- ability to collaborate with staff
- ability to measure and monitor links with productivity
- time and priority management skills.

The culture of the organisation overall, in management and in teams, is critical to conveying the importance and acceptance of flexible work arrangements, including:

- commitment from senior management down

- team support and understanding by team members
- honesty and openness between employers and employees
- practices/values modelled by senior management
- sympathetic and cooperative bosses, more flexible unions
- management being more outcomes focussed rather than time at desk
- management understanding of importance of voluntary work.

Some organisations felt that the introduction of a legislated **right to request** could help those on lower incomes and/or with less seniority have more confidence to approach managers to ask for flexible work.

Collective and individual **employment agreements** need to support flexible work arrangements for example increasing the flexibility of core hours in agreements.

Other issues raised include:

- the ability to negotiate leave and finishing times in school sector (education)
- incentives to encourage employers to employ people who have experienced mental illness and measures to address prejudice/misinformation about people with mental illness
- better childcare provisions
- day care for elderly dependents
 - breast feeding facilities for mothers at work.

QUESTION 3

What do you think will help managers or employers introduce and manage flexible work arrangements?

Similarly to Question 2, individuals and organisations agree that managers and employers need:

- knowledge and understanding of issues and options,
- access to information and resources,
- good workplaces structures and processes,
- good communication,
- leadership and
- a supporting workplace culture.

In addition employers and managers may benefit from more active support such as training and networking, and the Government could provide incentives for employers to introduce flexible work arrangements.

Summary of responses from individuals

Information/resources are needed coupled with **processes and infrastructure** that are well promoted and easily available. Any information needs to be easy to understand and easily accessible. Specific areas mentioned include:

- proof of benefits such as effects on productivity, absenteeism, health of staff and staff retention
- fair and transparent processes and policies for example how workers apply for or transfer to flexible shifts
- successful models from other workplaces
- guidelines from Government explaining employers roles and responsibilities
- adequate resources such as IT, personnel and budgets
- ways to monitor and measure progress and outcomes of arrangements
- assistance in providing childcare facilities.

Managers may need more **active support** such as training on differing managing styles for enabling flexible work arrangements and application of flexible work practices.

A supportive **workplace culture** is important to foster trust and respect between employers/managers and employees. It can enable managers to think outside the square to find solutions and provide the environment for managers, employees and unions to work collaboratively.

Government could show leadership by providing incentives for employers such as an award scheme or financial support for business (especially SMEs) for example subsidised advertising, recruiting, and training.

Some organisations believe that specific legislation that gives employees the **right to request flexible work** is needed to provide a process for requesting

and grounds for refusal. Some respondents note that rights needs to be balanced with the ability of organisations to do business.

Summary of responses from organisations

Information/resources are needed coupled with **processes and infrastructure** that are well promoted and easily available. Any information needs to be easy to understand and easily accessible. Specific areas mentioned include:

- resources such as policy templates, guidelines, FAQs etc on the benefits; range of options; how to analyse workloads and plan to accommodate flex work; how to establish arrangements for accountability and communication; how to monitor and review arrangements; how to be fair; how to manage potential conflict; and effective recruitment and retention
- information available on line and updated regularly (to show sustainability)
- case studies and pilots in similar organisations and across different sectors
- evidence about the benefits of flexible work particularly on productivity
- standards and processes to make sure arrangements don't undermine security of employment – "flexicurity" through collective processes
- information about current legislation
- clear job descriptions
- payroll and time recording systems that accommodate flexible work
- IT, health and safety and other policies that take into account flexible work arrangements
- processes on how to find out what staff need and find out what already happens
- effective IT and support for employees and managers
- other family friendly initiatives such as on-site child care.

Managers may need more **active support** including:

- training on how to manage and implement flexible work arrangements, potentially mainstreamed into professional development – example of the packages developed in the UK were given
- consultancy advice/external companies that can help
- job shadowing or visiting other organisations where flexible work arrangements already happen
- interagency collaboration and networking opportunities to share learnings/resources
- specific courses and workshops on flexible work funded by government and run by unions and other groups
- flexible work for themselves.

Leadership and communication is important including:

- strong advocacy from the senior management team
- approachable and receptive management – an "open door policy"
- strategic communications including intranet, new manager inductions, brochures etc
- clear articulation of flexible work objectives for the organisation
- performance incentives for managers to introduce and manage flexible work

- being seen as an “employer of choice” and offering incentives to keep good staff
- celebrating success when flexible work arrangements work effectively.

Government could show leadership in the area by:

- having an excellence awards scheme
- having a contestable fund for formal pilots
- encouraging champions in particular sectors
- offering incentives for organisations to implement flexible work practices for example reducing ACC levies or providing tax advantages
- government departments adopting flexible work practices and promoting their activity
- recognising and promoting to employers the role of volunteers and how flexible work can support them.

Managers, employees and unions working together in **partnership** is mentioned including the potential to use collective/individual agreements developed in collaboration. Other suggestions include:

- involving the workplace – while the arrangements are individual, flexible work needs to be managed at the workplace and team level too
- a role for unions in facilitating discussion between employers and employees and involving employees in the way working hours are organised
- dialogue between employers and unions in setting minimum standards and exploring options that are available, and seeing if employment agreements can include provisions relating to flexible work or will fit with flexible work arrangements
- using the collective bargaining process to develop principles and guidelines to manage flexible work
- working with workplace stakeholders to make sure work environments are accepting of work in life decision making.

Managers need to be able to cover off a range of concerns when **managing flexible work arrangements**. Those mentioned include adverse impacts on operating viability/costs, disparity of treatment claims, additional compliance costs, providing operational coverage, and security of premises/computers.

QUESTION 4

What do you think are the practical difficulties managers or employers may face when trying to implement quality flexible work arrangements?

The main difficulties raised by both individuals and organisations are maintaining production and customer service standards, planning and monitoring work including budgets, managing staff effectively and maintaining managers' own work-life balance. Some respondents believe that managers would not face difficulties or that the benefits of introducing flexible work outweigh any difficulties that may arise.

Summary of responses from individuals

Some individuals feel that managers may not face any practical difficulties and/or the benefits of introducing flexible work arrangements outweigh the difficulties.

Managers would need to ensure that **production and customer service standards** are maintained, through adequate and consistent staff coverage, particularly for businesses that have 24 hour/7 day operations or public interface. This includes meeting production demands and customer expectations.

The potential for **additional costs** was raised for example administrative and training costs, additional staff, IT set up and support and monitoring.

Managing staff effectively is important. Specific areas mentioned that managers need to deal with include:

- competing demands, treating staff fairly and consistently, creating fair and transparent processes, and dealing with potential sense of unfairness from other staff who may not work flexibly
- finding the right flexible work solutions that meet employee needs and team/organisational needs
- assessing the impact of a flexible working hours request on the whole team
- making sure there is the right skill mix and number of staff available at key times of the day
- trying to recruit staff for very small FTE gaps
- managing off-site staff
- dealing with abuse of arrangements
- putting in place management systems without appearing to distrust staff.

Maintaining managers' own work-life balance was mentioned when there may be increased workload for managers with the introduction of flexible work for example more staff, more planning, more monitoring, arranging meetings etc.

Summary of responses from organisations

Managers would need to ensure that **production and customer service standards** are maintained including:

- maintaining sufficient staffing levels for consistent and reliable service delivery, coverage and back-up
- maintaining customer contact and standards
- maintaining productivity and meeting deadlines
- maintaining production line continuity.

Managers would need to be able to **plan work** effectively including:

- incorporating flexible work into business planning
- monitoring outcomes
- assessing costs and benefits and dealing with other budget implications such as IT set up, additional labour
- addressing workloads, skills levels and workflow
- maintaining expertise for example to deal with emergencies
- making time available to think through innovative solutions
- dealing with competing organisational values – an example of overseas owners with different values was given
- designing jobs and assessing people's skills.

Managing staff is important including:

- managing the impact on other team members
- addressing potential inequities across teams, managing competing requests and ensuring consistent, transparent and fair practice
- attracting and recruiting the right people
- managing performance at a distance
- negotiating/managing existing contracts that may be inconsistent with new arrangements
- managing attitudinal shift in staff and managing for potential negative impacts on existing staff not working flexibly
- dealing with diversity issues.

Other issues that may need to be coordinated and managed include security issues, health and safety obligations (particularly for remote working), and work space issues.

Maintaining their own work life balance could become an issue for managers with potentially more demands on their work time to manage and implement flexible work, more staff to train, supervise etc.

Managers may not have a **clear organisational policy** to provide a framework. Some organisations suggest that a legislated **right to request** flexible work could assist managers to deal with difficulties by legitimising requests and providing a clear process for consideration.

QUESTION 5

What do you think can make it hard for employees to ask for flexible work arrangements?

Both individuals and organisations mention a range of real or perceived fears that employees may have that can make it hard for them to approach their manager or organisation. Personal circumstances and characteristics were also raised including income maintenance issues and levels of confidence to approach and negotiate with managers. The culture of the organisation and the level of workplace or institutional support are also important factors.

Summary of responses from individuals

A majority of the respondents talk about both **real and perceived fears** associated with asking for flexible work and the longer term repercussions arising from a request, whether or not it is granted. The range of fears includes:

- rejection and/or loss of job
- being seen as not committed to the job/organisation or thought to be putting family first, not work
- being viewed as a difficult and demanding employee
- being disadvantaged/sidelined/discriminated in the long term in relation to promotion, career advancement, interesting work, pay rises
- being unable to achieve deadlines compared with colleagues
- job competition – someone able to work non-flexible hours could be favoured for position
- not being employed if you have young children
- concern that flexible work might mean reduction in pay or casualisation
- knowledge that there are implications for your team members ie, potential for extra work to be distributed around existing staff as opposed to bringing in additional resources; not wanting to let the team down
- being penalised or 'shunned' by workmates
- uncertainty about how much flexibility may be needed – particularly in ever changing situations like terminal health in family, or children/family commitments.

Employees may not want to work flexibly even if they could because of the need to **maintain an adequate income**.

The **culture of the organisation** may also be a major hurdle for employees.

Some issues cited include:

- a culture that's averse to risk taking or where flexible work is something new
- employer expectations, for example that staff work more than their official hours, or work harder and longer hours, or be at work at particular hours, or that work must come first in a person's life
- a culture that doesn't recognise that men may need flexible work to meet family responsibilities or that people other than carers may need flexible work too

- level of organisational hierarchy: “When you have to go through the chain of command which is 4 levels, it’s rather daunting”.

The nature of the **employer/employee relationship** will have an impact including:

- the manager/employer as role model - employers not using flexible working arrangements themselves do not set a precedent for their employees
- dealing with the power imbalance between employer/manager and employee. Access to flexible work can depend on confidence to approach manager, negotiation skills and the ability to articulate the benefits to their employer.

A lack of **workplace or institutional support** can prevent people from asking for flexible work arrangements. This may include the absence of process, policies, guidelines or general support. Specific issues cited are:

- lack of transparency as to how things can work; lack of knowledge of workers rights and options
- no precedents, guidelines or clear process in place, or no provision in existing employment agreement
- potential disconnection from workplace when on parental leave
- unsure of bargaining position, especially if on individual contracts
- lack of awareness of what to ask for and how to ask for it, or the kind of changes that can work
- no redressal mechanism is request is refused
- lack of complementary supports such as childcare facilities.

Many individuals believe that a legislated **right to request flexible work** will make it easier for employees to ask and feel they will have their requests considered seriously.

Summary of responses from organisations

Organisations also raised the issue of **real or perceived fears** including:

- being seen as different
- being seen as getting special treatment
- letting down colleagues
- losing interaction with colleagues
- having request refused
- job security/expendability
- increased workloads
- losing extra hours.

Organisations also highlighted **personal characteristics or circumstances** of employees that may prevent them from asking including:

- lack of confidence or assertiveness
- lack of confidence in English
- poor communication skills
- other priorities being more important such as maintaining income levels

- less choice for example people who are on lower incomes and cannot afford less or people who are in casual, temporary or seasonal work
- lack of skills to assess how it might work or find the process too complicated or time consuming to take on
- having specific issues they do not want to disclose when requesting flexible work for example mental health issues.

Employees may not be able to see or approach the issue from the **employers' viewpoint**:

".....in our advice to our employees we say "When requesting flexible hours you should think about the following and be prepared to discuss with your manager. What changes do I want? Why? Will this be a short term or one off arrangement or is this a long term change? Will this work for the business? Are there any barriers? What are they and is there a work around? Do I require any technical support? What, why and how much will it cost?"

Large employer

The **culture of the workplace** might deter employees from asking, particularly in an organisation that hasn't demonstrated any commitment to flexible work. The attitudes of managers and co-workers are an important deterrent. Employees may have difficult relationships with superiors.

A lack of **workplace or institutional support** can prevent people from asking for flexible work arrangements. Issues cited include the absence of process or policy, or a process too complicated or time consuming to take on, no commitment from senior managers/HR; no information about options or process, or the nature of the work or the workplace may limit the options available.

Some organisations believe that a legislated **right to request flexible work** will give employees the leverage to ask for flexible work arrangements.

QUESTION 6

Do you think different types of employers, types of work or workplaces, or occupations face particular challenges in providing for quality flexible work? What are these challenges? What is needed to meet these challenges?

Individuals and organisations agree that different employers, workplaces and occupations face different challenges for example customer/client line focussed services, production, seasonal activities. Responses to meeting the challenges mirrored answers for questions 2 and 3. In general respondents were largely positive that flexible work can and should be achieved. There was, however, less support from organisations than from individuals for this to be achieved by legislating for a right to request flexible work.

Summary of responses from individuals

The majority of respondents agreed that different employers, workplaces and occupations do face different challenges and that the nature and size of the workplace will dictate the extent to which flexibility can be achieved.

Particular challenges for **sectors** were those that have a 24 hour/7 day service and conversely those that have lowest demand for 24/7; those where there are skill shortages; and those that rely on shift work for example heavy industry and hospitality.

Work that is time or space bound was mentioned.

Workplaces that have particular challenges are those where there is a heavy customer service requirement; contact hours with clients or patients are pre-set; and/or strict shifts or rosters are based on customer needs; or where a small number of staff deliver 'specialised' services.

In terms of **size of business**, a majority of respondents agree that small employers and small businesses would face the greatest challenge because they may not have as much flexibility in staff rotation as they may lack of a pool of back-up workers to cover sickness and unexpected emergencies. They may also lack specialised HR resources and knowledge. Small employers involved in seasonal trades and services may face even more challenges. However some respondents felt that the reverse was true, that small enterprises could be quite adept at achieving flexibility.

Rural operations may have less capacity for flexibility given the isolation of some communities, and staff, accommodation and transport issues.

Meeting the challenges

Overall, nearly all the respondents were positive that, notwithstanding the challenges and the varying nature of workplaces, **flexible work could and**

should be achieved. Responses mirrored answers for previous questions including:

- need for a change in culture and attitudes coupled with information and support
- some employers may need financial incentives to act, especially small business
- every situation needs its own solution but can have processes that provide framework
- legislating for the right to request flexible work can provide the framework for requesting and considering flexible work arrangements
- flexible, affordable childcare is also needed.

Sector specific comments:

Accommodation, Cafes and Restaurants - already dealing with high turnover, hours of operation or seasonal needs, surcharge on public holidays. Smaller employers may not be able afford to offer better wages when they're busy. Employers may not know what rights their workers have.

Communication Services - need to keep up with competitors in delivering services and products. Customer service needs to be maintained to attract and retain customers.

Construction - may not be much understanding or tolerance of family issues. There can be set hours of operation when all trades are available.

Cultural and Recreational Services - workplaces may be under-resourced with people carrying several roles.

Health and Community Services - adequate staffing for 24 hour/critical services for example emergency services; mental health services; intensive care units; safe staffing. Whilst some respondents noted the difficulty of flexibility in the health sector, many were also positive about the potential for change.

Summary of responses from organisations

The key themes from organisation responses are largely consistent with those from individuals. The vast majority of respondents agree that different employers, workplaces or occupations faced particular challenges in providing quality flexible work. There is general agreement about the uniqueness of workplaces and therefore there is no one-size-fits-all solution. Many of the challenges depend on the type and size of the business, the employees, managers, the geographical location and the workplace culture.

The range of challenges raised by respondents includes:

- occupations requiring workers to be "present" at work for example, hospitals, retail, prison and customs officers and/or occupations requiring workers to attend within specified hours
- companies that have deadlines to complete work for example construction and road building industries
- businesses of a process nature or who operate on tight margins

- team positions requiring safety and security cover
- seasonal work and/or rural communities for example farming sector – accommodation and transport issues make finding extra staff difficult
- working long hours for low pay for example care-giving sector
- roles that need access to on-site technology
- a person employed in a sole-charge position, for example sole charge retail manager; or a manager who must be at work to supervise others, for example building site foreman
- safety issues for example women working alone in service stations and dairies at night.

In relation to **business size** respondents felt that small business may have less opportunity to be flexible for example costs associated with having additional staff to allow for flexible hours can be prohibitive to many smaller employers. However flexible work was easier to manage in a small organisation. In large organisations flexible work may be more difficult to manage, but it should be easier to provide cover and there is potential for more options to be available.

Meeting the challenges

The majority responded that an **industry/sector approach** and development of specific best practice guidelines to suit each sector would be the most effective way to promote greater understanding and implementation of flexible work options and to deal with issues particular to the sectors.

Different approaches would be needed to suit such variables as the business hours, customer base, services provided, type of sector, types of workers and recognition of the individual/team interactions within the business. The extent to which the composition of the workforce is fulltime, part-time, casual/seasonal, were also stated as factors influencing the level of flexibility, and the acceptance of it.

Overall, the responses from organisations were largely positive that flexible work can and should be achieved, with many presenting ways forward that reflect answers to previous questions.

Sector specific comments

Accommodation, Cafes and Restaurants – need employees to be there when guests and patrons are present and therefore this may limit the options available.

Agriculture, Forestry and Fishing – many of these industries are based in rural communities which raises issues of:

- distance and communication – telecommunications is frequently unreliable and can be an additional cost for example satellite connection
- sometimes the small scale or the rigid or seasonal nature of activities can restrict flexibility for example dairy farming (fixed hours) or sheep and beef farming (seasonally intense periods)
- lack of support services for example childcare and after school care.

Solutions can and have been developed but organisations and communities need considerable research and advice to work out the best approaches.

Cultural and Recreational Services – many have fixed hours or 24/7 operations, rotating shifts.

"The logistics of how flexible working hours legislation can be incorporated into rotating shifts is particularly hard, if not impossible, to manage without significant compliance costs and risks".

Education – there can be resource issues around financing IT support and security. Challenge will be greater for small schools that do not have the timetabling flexibility of large schools. Rural secondary schools will have to consider issues around transport for students and teachers. The rigidity of school hours may limit options available. In the tertiary sector there would be very few instances in which working arrangements could not offer some degree of flexibility.

Finance and Insurance – face to face customer services roles are bound by hours of opening and a need to have sufficient staff on the floor to provide excellent service.

Government Administration and Defence - the state sector, in which government is the employer and/or funder, has a responsibility to model quality flexible working arrangements along with work life balance, decent work, pay and employment equity, and increasing skills in the workforce.

The roles of knowledge workers (in many government departments) are more suited to flexible working arrangements, particularly where there is no need for contact with either clients or co-workers.

Employers with fixed resources and working within financial constraints (for example local authorities under pressure to reduce rates) may have difficulty enabling the flexible work they may desire. The challenge is for equity – allowing flexible working practices across the board whilst maintaining customer service commitments.

Some occupations that require workers to be "present" at work (as opposed to being able to work remotely) for example prison officers, customs officers, and/or occupations which require workers to attend within specified hours may not lend themselves readily to flexible working arrangements.

Health and Community Services - the 24/7 nature of health care may limit the range of flexible work options available and raises issues around who gets priority for the most desirable work hours. The health sector has staff shortages. Flexibility should not come at the expense of appropriate pay and other conditions.

The care-giving sector could also face a number of challenges. Services need to be delivered at set times. People (predominantly women) working as care-givers

often work long hours for low pay. Staff turnover can be high and there are now demands for workers to obtain qualifications. In both these cases an industry/sector approach (for example development of specific guidelines) to the introduction of quality flexible working hours can be the most effective way of dealing with these sector-specific issues.

Manufacturing - production requirements may limit the range of flexible work options available. Increasing staff to cover leave could be costly and challenging in a tight labour market. There is a need to ensure safe working practices and continuity of shift work. Manufacturing environments differ greatly between workplaces so flexible responses will need to be unique and individual to any given workplace.

Personal and Other Services - flexible work can create business growth opportunities. New Zealand can offer services for other countries in different time zones and still accommodate local business needs.

Property and Business Services - for women in the legal profession one of the biggest challenges will be changing the long hours culture.

Retail Trade – there are examples of retailers who have worked to introduce a flexible environment - some stores keep their staffing level at 110% to maintain flexibility.

"Flexibility can be achieved by good planning and multi-skilling throughout; given the low profit margins it becomes a delicate balancing act."

Transport and Storage - in the Maritime industry, there is potential to establish a pool of registered waterfront workers who then make up a security vetted, trained and quality workforce for cross hiring. Such systems operate in some of the larger ports in New Zealand.

The transport industry is governed by legislation that is very specific around hours, times, breaks etc. It would make it difficult to accommodate many types of flexible work arrangements without significant impacts on such things as the timely delivery and receipt of goods, and information and documentation.

The air travel industry has particular challenges because shifts and rosters can limit the options available. Costs for training and to allow staff coverage is a significant factor in being able to have staff work part time and flexible time.

Voluntary Services/Emergency services – a number of organisations mention the need for flexible work to allow people to do voluntary and community work. The role of emergency service workers was highlighted such as volunteer fire services, search and rescue and civil defence etc who respond to unplanned situations and require specialist skills.

"The needs of volunteer based emergency services should be especially highlighted in any material developed to promote and give guidance"

about flexible paid work arrangements and the mutual benefits to the employer and the community”.

QUESTION 7

The discussion paper presents a number of approaches for increasing the availability and take up of quality flexible work. What are your views on these approaches and which approaches would best help employees achieve quality flexible work and meet the needs of businesses?

These approaches include:

- A. Providing employers with more information and resources about managing quality flexible work
- B. Providing employees with more information about the existing provisions of the Employment Relations Act in relation to requesting flexible work
- C. Providing legislation with more specific provisions about employees' rights to request flexible work
- D. Providing employers with formalised guidelines on how to implement and manage flexible work
- E. Supporting employers, employees and unions to work in partnership to implement and manage flexible work

In general there is support for all approaches. The highest level of support is for Approach C (all form responses and 58% of non-form responses), then Approach A (53% of non-form responses), Approach B (46%), Approach E (44%) and Approach D (35%).³ The highest levels of opposition are for Approach C (18% of non-form responses) followed by D (9%).

A third of respondents feel that either all or a combination of approaches will work best because of the huge variation of circumstances and potential arrangements.

While many respondents support the provision of more information and resources for employers and employees, many believe that these on their own will not be sufficient to see appreciable changes in workplaces.

Individuals, unions and community groups/non-government agencies support Approach C much more markedly than employers and business representative organisations/industry groups, where Approaches A and B and E have higher levels of support. Of those that support Approach C, the majority want it to apply to all employees, not just parents and other carers.

Those that support a legislative approach, feel that it is needed to legitimise the issue and provide a clear process and grounds for refusal that would help employees and employers. Those that do not support this approach see it as too rigid or prescriptive for something where there are no one-size-fits-all solutions and feel that more active support through funding, training and partnerships is

³ The form responses only covered approach c.

Twelve percent of responses did not answer this question

more likely to make the provision of information and resources more effective and be a more effective approach overall.

Many respondents suggest that greater efforts to promote flexible work arrangements (both current provisions and possible provisions) are needed. Providing case studies and information that provides a good business case for flexible work is commonly mentioned. The need for champions across different industry sectors is also seen as vital.

A number of respondents commented that any approach needs to work for people on low incomes and people with insecure employment.

Approach A: Providing employers with more information and resources about managing quality flexible work

Summary of responses from individuals

People are supportive of this approach and think it would help managers better understand the needs of employees, the benefits of flexible work and how it could be implemented and managed. The provision of practical, example based information and support, and the need for employer champions is highlighted. Some respondents feel that, in itself, this approach would have little impact and needs to be supported by more active approaches such as C, D and E.

Summary of responses from organisations

In general organisations think Approach A is a good idea with only a few saying that it existed already.

In terms of the type of education and promotion the following points are made:

- a tool kit rather than one-size-fits-all
- balanced and reliable information coupled with active support, guidance and training
- concentration on small steps
- tailored and practical
- mirror resources provided for paid parental leave
- needs to be in plain language
- must emphasise the potential benefits alongside implementation advice
- information sharing between organisations would be useful.

In order for education and promotion to be more effective some organisations believe it needs to be coupled with Approach C. Others think that employers need more active support or need incentives to encourage them to implement flexible work arrangements.

Approach B: Providing employees with more information about the existing provisions of the Employment Relations Act in relation to requesting flexible work

Summary of responses from individuals

While information about employees' rights and flexible work options is acknowledged as important, many respondents feel that it is not enough and needs to be supported by more active approaches.

Summary of responses from organisations

In general respondents think that providing information for employees is useful. Opinions differed on the type and extent of information and the best methods for delivery. Some respondents felt it isn't the government's role; that enough information already exists for employees to use, it is in the employers best interest to make this information available themselves; or that information would be too general to deal with the specifics of many different individual arrangements.

Other respondents feel that information is not enough and needs to be coupled with more active approaches such as a legislated right to request, or at the least active support and guidance. Some note that there is a danger of raising expectations if there is no business commitment and framework to deal with requests and manage arrangements.

Important aspects about information raised by respondents include the need:

- to start with the existing provisions of the Employment Relations Act around the right to request to vary employment agreements (and have the employer deal with this in good faith) and build on this with tools to help employees clarify and articulate their needs,
- for employees to think about potential impacts on the work and the workplace, and to frame their requests with this in mind.
- for any information emphasise the potential benefits alongside implementation advice.
- for any information to be in plain language and be readily accessible by all. Some respondents highlight accessibility for particular groups such as people with disabilities (for example having information in appropriate formats, workplace advocates, and interpreters) and pacific people (for example having information appropriate languages and disseminated through effective communication networks).

A number of respondents suggest that this approach would work well in combination with Approach A.

Approach C: Providing legislation with more specific provisions about employees' rights to request flexible work

Summary of responses from individuals

Many respondents support the provision of legislation with more specific provisions about employee's rights to request flexible work. The main reasons respondents give for supporting legislation are that it will:

- legitimise the issue and ensure that employers take requests seriously
- provide a framework and process for dealing with requests for employees and employers that can apply to all situations
- provide the catalyst for employers and managers to think about working practices
- make it easier for employees to ask
- open lines of communication between employer and employee
- give the employer knowledge they can reject requests with good reason
- support sustainability of flexible work arrangements if labour market conditions change.

Some respondents think there would be difficulties with legislation because it was more important to establish good communication and dialogue; it may cause tension between those who can request flexible work and those that cannot, and that it could hurt smaller employers.

Summary of responses from organisations

Those who support more specific legislation in general think it should be available to all employees not just people with family or caring responsibilities. However some highlight that flexible work is important for particular groups of people including breast feeding mothers; voluntary emergency workers; young people; vulnerable workers and Pacific peoples. The reasons given for supporting legislation are that it would:

- provide for equity of access across groups and workplaces
- provide a baseline from which to start – "good" employers may already do this but will provide a framework for those that don't
- provide a transparent and consistent process
- help set parameters for conversations about rights and flexible work requests
- give employees some say over rosters and shift patterns.

Several respondents note that legislation would need to fit with the existing good faith provision in the Employment Relations Act and would need to be linked to collective bargaining processes.

Those that do not support legislation give the following reasons:

- legislation is too generic to deal with the "no one size fits all" nature of flexible work arrangements and some businesses cannot offer flexibility because of the nature of work
- rights already exist in the Employment Relations Act and this should be better utilised

- legislation is not needed as employers are already doing it, and the demand is not there
- legislation would send the wrong signal to business about flexible work as a compliance rather than good business practice, and may bring added costs and compliance and added pressures on workplaces
- legislation may create expectations among employees that cannot be met
- legislation may increase uncertainty for employers and some employee groups may be more marginalised
- legislation may give rise to employee grievances/relationship issues if requests refused
- legislation is not required if you can have meaningful employer/employee discussions. Putting obligations on employers may not encourage good relationships. The right working environment and management philosophy is more important.

If legislation with more specific provisions about employees' rights to request flexible work is introduced, some organisations want specific concerns addressed including:

- that it should not impose a disproportionate burden on business particularly on those already implementing flexible work arrangements
- the need to make sure that it doesn't undermine labour flexibility
- that it must not come at the cost of adequate pay and a supportive work environment
- that it should not be too prescriptive
- the potential impact on small organisations
- the need to include secure grounds for employers to refuse requests.

Approach D: Providing employers with formalised guidelines on how to implement and manage flexible work

Summary of responses from individuals

Some respondents feel that formalised guidelines could provide a good framework for planning and considering flexible work requests for both employers and employees.

Summary of responses from organisations

Those that are supportive of formalised guidelines feel that they would complement Approach A and in some cases C. Some organisations feel that they would be beneficial particularly for small employers and that it could provide a good opportunity to work in partnership with employers and unions to develop them. Guidelines need to be flexible and relate to specific sectors and/or industries.

Those organisations that did not favour this type of approach think that formalised guidelines would be either too generic or too prescriptive to be useful and are unsure whether they are taken seriously outside a unionised environment.

Approach E: Supporting employers, employees and unions to work in partnership to implement and manage flexible work

Summary of responses from individuals

Those that support partnerships highlight the importance of creating good dialogue and communication between employers, employees and unions. This is seen as vital to making flexible work arrangements work well.

Summary of responses from organisations

In general those that support partnerships think that they should be built around specific sectors, or groups of workplaces to be effective, for example the retail sector or HR practitioners. The use of collective bargaining for setting the framework for discussions about flexible work is also supported by some organisations.

Several organisations indicate their willingness to be involved in partnership work to promote flexible work and develop sector/workplace solutions.

QUESTION 8

Other comments

Summary of responses from individuals

In general additional comments reflect views already expressed in the previous questions. Many comments focus on the benefits of flexible work including:

- increasing workforce participation and diversity; improving productivity; decreasing sick leave, increasing staff loyalty and decreasing turnover
- being good for communities because it allows more people more time for voluntary activities
- benefiting older people, students, volunteers, facilitating life long learning, upskilling and retraining
- reducing traffic congestion
- helping migrants to settle into the country and to also have the opportunity to go overseas for family etc
- being particularly important for people with disabilities or people with mental illness wanting to enter/stay in the workforce.

A number of individuals cite examples of how flexible work has worked for them and that their and their workplaces' experiences have set precedents.

People's needs for flexible work change over time as do the requirements of a business. Flexible work arrangements should be reviewed regularly to make sure they continue to meet individual and business needs.

Because New Zealand has a significant number of small and medium sized businesses, flexible work needs to be able to work for them and not be too onerous. If regulation is considered there could be special provisions/support for small and medium sized businesses.

There may be some negative impacts of flexible work that need to be given serious consideration including the impact on careers and promotion prospects; potential exploitation of casual and temporary workers; and the relationship to sharing of unpaid work in the household.

Summary of responses from organisations

Additional comments tend to reflect views already expressed in the previous questions.

In general there is a sense that, in trying to increase availability and take up of flexible work, any initiatives need to balance regulation with encouragement.

There is a need to ensure that people on low incomes relying on overtime to earn a decent wage should not lose out and that flexible work options need to be available for those on low incomes and in precarious employment. Flexible work options are not just important for parents and other carers – people with

disabilities and people with mental health issues would benefit significantly from flexible work arrangements.

Some organisations mention the potential to introduce or extend flexible work in their workplace and several indicate their willingness to support the promotion of flexible work in New Zealand.

A number of organisations highlight the need to recognise the importance of flexible work for the community and voluntary sectors. For example many community activities and services rely on the efforts of volunteers to function. Emergency services are a prime example.

The relationship between flexible work arrangements and travel and transport is becoming increasingly intertwined.

Other organisations mention the need for other support and infrastructure to complement flexible work such as childcare provision, more outside school hours' care, respite care and elder care.

APPENDIX 1

Coalition for Quality Flexible Work

This is a coalition of community groups, launched on 6 November 2006, promoting legislation to provide the right to request flexible working hours for all employees. Members include:

- Parents Centres New Zealand Inc
- Parenting Council of New Zealand
- New Zealand Council of Trade Unions
- NZ Federation of Business and Professional Women
- Grey Power
- Tertiary Women's Focus Group
- YWCA
- Zonta New Zealand
- NZ National Playcentre Federation
- Women's Studies Association
- Coalition of Community Law Centres
- Wellington Women Lawyers Association
- Auckland Women Lawyers' Association
- La Leche League
- Rural Women NZ
- Auckland Women's Centre
- CEVEP
- Women's Health Action Trust
- Transport 2000
- Peace Movement Aotearoa
- Auckland Breastfeeding Network
- Auckland Working Women's Resource Centre
- Central Hawkes Bay Playcentre Association
- National Women's Lawyers Consultative Group
- New Zealand Nurses Organisation
- National Distribution Union
- Engineering Printing and Manufacturing Union
- Rail and Maritime Union
- Service and Food Workers Union Nga Ringa Tota
- Auckland Tramways Union
- UNITE!
- Finsec
- PSA
- Association of University Staff
- Youth Union Movement
- Maritime Union of New Zealand
- Clothing Workers' Union

The key points from the Coalition responses have been incorporated into the main body of the report and are summarised here:

- A. Flexible working hours benefits employees, employers, families , the community and the country

- a. Allows employees to manage work life balance including parents, students, older people, volunteers etc
 - b. Leads to increased productivity, staff morale and reduced absenteeism and staff turn over.
- B. Legislation will ensure every employee has the right to request to work flexibly and employers must deal with the request seriously.
- C. Legislation should cover all employees.

In addition a number of individuals and organisations (105 in total) made further comments in the following areas:

- Some describe their personal experience of flexible work and how this has benefited them, their families/communities and employers
- Some describe the current difficulties they have juggling competing demands and the difference that flexible work would make
- Some raise concerns about the adequacy of income and how this can make it difficult to think of flexible work as an option
- Some note the difficulties of implementing flexible work in some work environments, notable teaching and nursing (aged care sector, acute care, mental health service)
- Some note solutions that could be used in general or in some specific sectors (for example changes to shifts and roster, self-rostering, glide time, job sharing).