



## Workplace flexibility and the recovery — risks and opportunities

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- Flexible work arrangements in organisation's short-term interests but also to keep employees satisfied in the medium to long term
- National Employment Standards now in effect and aim to promote workplace flexibility
- Increased productivity, better customer service, improved morale and reduced absenteeism just some of the benefits available to organisations through addressing staff flexibility needs

**The global financial crisis (GFC) and the introduction of flexibility requirements in the Australian National Employment Standards (NES) have focused renewed attention on workplace flexibility.<sup>1</sup>**

Let's look at some alternate human resource management approaches to the global financial crisis. Your workplace seems to have survived the economic downturn by adopting a simple but proactive approach. You and your co-workers, from the CEO down, worked together focusing on areas that you could control to find an answer to the problem.

The answer was that everyone in the organisation agreed to reduce working hours for a six-month period. Some chose to work part-time or to job share, others chose to take unpaid leave. Senior management led the way by taking a 15 per cent pay cut. The result was that everyone kept their jobs.<sup>2</sup>

The business also benefited by saving on payroll

costs but most importantly by not losing the skills of its people, its priceless intellectual capital and irreplaceable internal and external customer relationships were safeguarded.

Other organisations treated people purely as just another line item, just another cost to be cut. Their focus was lamentably short-term and designed to achieve a quick fix for the bottom line. As a result, many of their best people left their long-term jobs to find organisations like yours. People who stayed on were often numbed and 'shell-shocked'. They felt an acute sense of loss caused by close work colleagues being forced to leave, and reacted angrily to what they felt was a betrayal of people by their organisation. Their anger was compounded by having to cope with increased workloads when co-workers were not around anymore. They were often required to do more with much less.

The end result was that commitment and loyalty have dissipated and productivity and effectiveness plummeted in more short-sighted organisations.

At the same time, the morale and commitment at your workplace is at an all-time high. You and your colleagues have created an environment where people trust and help each other, where people feel secure in their jobs, and where work and life balance has become a cornerstone of the organisation's business and strategic planning.

All employees from the CEO down take advantage of these flexible practices, which are encouraged as a vital part of a growing and creative organisation. Flexibility is seen as a business imperative for success.

### Australian success stories

Harry Stout, ING Australia (INGA) CEO, says:

As a result of the GFC we have had to find creative ways of best deploying our resources from declining business areas to those that are growing and requiring

greater resources needs. INGA has prided itself on retaining employment wherever possible, while our competitors reduced headcount by five to 20 per cent. To achieve this we worked with our employees in finding ways we could reduce our employment costs while maintaining headcount. Through further encouraging flexible work practices, we were able to ride through the markets turbulence and are now positioned to leverage new opportunities.

Flexible working arrangements are open to all employees at INGA. They include access to part-time working arrangements such as a reduced working week, a reduction in hours by 1.5 per day to accommodate school times, as well as the option to work a nine-day fortnight or a 19-day month. These practices were promoted extensively in 2009. As a result INGA generated a ten per cent take-up rate.

A similar response happened at AMP Ltd. Katriina Tahka, AMP Head of Talent & Diversity explains:

The challenging environment of the financial crisis encouraged us to look at creative ways to retain our employees and increase engagement and productivity in challenging times. Creative workforce planning strategies that continually reinforce flexibility as a work option ensure AMP has the workforce it needs, without compromising our optimistic and positive brand and culture.

A recent employee survey showed that around 50 per cent of AMP employees had worked flexibly in some way in the last six months. The companies flexible work options include 14 weeks paid parental leave, flexible start and finish times, credit/debit time, career breaks, job-share arrangements, part-time work, telecommuting, work from home, compressed work hours, emergency family leave, purchase of additional annual leave and carers' leave.

AMP Ltd sees retention of skilled employees as a key benefit of these initiatives with an excess of 71 per cent return rate from parental leave and one in five employees having been with AMP for ten years or more. The other benefits include 'reduced training costs, increased ability to attract candidates (particularly Gen Y), and a more engaged and productive workforce,' says Tahka.

## New legislative requirements

Workplaces that have introduced or reinvigorated their flexible work practices over the past year have not only significantly reduced costs but are now in a

position to comply with the flexible work provisions of the new National Employment Standards (NES), which came into effect on 1 January 2010. The NES apply to all employees covered by the national workplace relations system, regardless of the applicable industrial instrument or contract of employment.

This particular NES will significantly increase employees' requests for flexibility and yet the majority of organisations do not have the knowledge base to comply.

The right to request flexibility provides eligible employees with significant entitlements and imposes legislated procedural and decision-making obligations on employers. The NES applies to any employee who is a parent, or has responsibility for the care of a child under school age or care of a disabled child under the age of 18.

Examples of requested changes in working arrangements may include:

- changes in hours of work (for example, reduction in hours worked, changes to start or finish times)
- changes in patterns of work (for example, working 'split-shifts' or job sharing arrangements)
- changes in location of work (for example, working from home or another location).<sup>3</sup>

Eligible employees must have completed at least 12 months of continuous service. Casual employees need to be employed on a regular and systematic basis for at least 12 months and there must be a reasonable expectation of continuing employment.

The employee's request must be in writing and must set out the change sought and their reasons for the change. An employer must respond in writing within 21 days and must state whether the request is granted or refused. If refused, the written response must include the reasons for the refusal. An employer can only reject the request on reasonable business grounds.

Damian Sloan, Partner at Middletons says:

The Act appears designed to facilitate workplace flexibility, rather than to impose it on employers. By requiring requests for flexible work arrangements to be in writing, and insisting on the employer responding in writing within 21 days, the Act encourages dialogue between employers and employees in relation to workplace flexibility. An employer cannot simply dismiss the request out of hand. The aspiration seems to be

that by facilitating discussions between the parties, the Act will in fact promote workplace flexibility.

The Act does not provide any guidance on what will constitute 'reasonable business grounds' for refusing and employee's request. This is quite logical, given that workplace flexibility by definition requires a consideration of the particular employment circumstances. Attempting to define the term, even by way of example, could in fact operate to limit its scope.

Employers may get some guidance from the cases that have explored the approach that employer's must take to accommodate an employee's family responsibilities, under relevant anti-discrimination legislation. Using those cases as a guide, both the employer and the employee would be expected to approach the discussions with, at the very least, an open mind, and a willingness to move in their respective positions so as to reach common ground. An employer would not be expected to approve any request for flexibility that would prevent the employee from performing the key functions of their role. It would also be reasonable to take into account the extent to which the changed arrangements would have an impact on co-workers and on the efficiency of the business generally.

While it is a regrettably lawyer-like thing to say, each case will simply have to be considered on its own facts.

Organisations such as INGA, IBM, AMP, Stockland and Carnival Australia are using the introduction of this NES to update existing flexible workplace policies and guidelines and/or provide training on the legislation and how to make flexible work practices viable. The legislation is providing an opportunity to reinforce their commitment to flexibility through awareness and education programs.

## The opportunities

Aside from legislative compliance, there are real bottom-line incentives to implementing workplace flexibility including increased productivity, better customer service, improved morale, reduced absenteeism, greater overall effectiveness, and an ability to adapt readily to market changes. There's also that very profitable, but less concise notion of 'discretionary effort', where workers go that extra mile because they believe that employers are doing the right thing by them.

Harry Stout of INGA sees flexible work arrangements as key pillars of their engagement practices and an integral part of their employment brand. Stout says:

Over the years we have continually invested in creating an environment that respects individuals and

is cognisant of their whole of life needs. Through supporting employees in their endeavours to gain the most out of all aspects of their home, work and family roles, we gain greater employee productivity and commitment to the organisation.

Ann Sherry AO, CEO of Carnival Australia says 'flexibility is embedded in the way we operate our business through policies and work practices'. Sherry has found the business outcomes of these practices to include:

- increased ability to respond to changing business requirements
- increased employee engagement
- increased productivity and
- effective use of office space.

IBM Australia has an extensive range of flexible work options for employees. With regard to benefits, Rosalind Reidy, IBM Diversity Program Manager, explains:

We know from surveys and feedback from our employees that flexibility matters to our people and as an IT company we are well positioned to offer flexible work options because we have the tools and technology to support it — virtually every employee has a laptop so staying connected is easy regardless of where they are. Work flexibility is also in line with our organisational values which are around personal trust and responsibility, innovation and dedication to client success.

We believe being able to offer flexible work arrangements helps us to attract and retain high-performing employees. At the same time we see our flexible benefits and leave options as helping to differentiate IBM from other organisations in the marketplace and position us as an employer of choice.

Rilla Moore, Executive GM, Human Resources, Stockland says that the current drivers for its focus on flexible work practices include maximisation of employee retention and engagement, provision of access to an additional pool of talent, desire to embrace a more diverse and inclusive workforce and compliance with the new NES.

## Assistance for small business

If you have a small business of up to 14 employees, funding of up to \$15,000 is available from the Department of Education, Employment and Workplace Relations to help manage work/life balance initiatives, including home-based work programs, flexible work practices such as job sharing and part-time work, flexible workplace policies and guidelines and family rooms. The current funding

round closes on 31 March 2010.<sup>4</sup> Eligible small businesses can include companies, partnerships, not-for-profit, non-government, sole traders and consortiums of up to three small businesses.

## Making flexibility work

All organisations have unique issues to address and most are at different stages in the development of their flexible workplace program. At Flexibility At Work we take a customised organisational change approach for the sustainable success of workplace flexibility. The steps can include:

- a work/life audit
- development of policies and guidelines which include the NES flexibility requirements
- an understanding of the organisation's specific business case
- employee and management training, which includes how to apply for and how to make these practices work
- sophisticated, facilitated dialogue with senior management
- management coaching
- a rewards system that includes effectively managing flexibility

- an ongoing communication strategy and
- program evaluation.

Organisations are now required by law to implement these practices. There is expert advice readily available to organisations from specialists in this field and a great deal of time and expense can be saved by accessing this expertise.

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## Notes

- 1 For detailed information on the legal dimensions of the NES, see Tumpey P, 2008, 'Government releases new National Employment Standards', *Keeping good companies*, Vol 60 No 7, pp 424–427
- 2 See, for example, Stockley D, 2009, 'The new rules for managing people', *Keeping good companies*, Vol 61 No 6, pp 372–374
- 3 Fair Work Ombudsman, 2009, *Requests for flexible working arrangements and the National Employment Standards*, Australian Government, Canberra
- 4 See [www.deewr.gov.au/WorkplaceRelations/FreshIdeas/Pages/smallbusinessgrants.aspx](http://www.deewr.gov.au/WorkplaceRelations/FreshIdeas/Pages/smallbusinessgrants.aspx) [23 February 2010] ■