

# Response to Information Request 6.1

## Productivity Commission of Australia's Draft Report on Childcare and Early Childhood Learning

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The Commission seeks participants' views on impediments to employers providing flexible work arrangements for parents

In the initial submission of the Workplace Gender Equality Agency (the Agency) to the Productivity Commission's Review of Childcare and Early Childhood Learning, flexibility of both work and childcare was noted as a key ingredient to increase the workforce participation of parents. In particular, the Agency's submission stated:

That formal childcare and workplaces need to become more flexible to support parents to balance their work and family commitments by.... 4. ensuring that flexible working arrangements for both parents are the 'norm' rather than the exception in Australian workplaces. Combined with increased flexibility of childcare provision, this will greatly improve parents' capacities to manage their paid work and family commitments more effectively.

### The Agency position

The Agency's position on flexible working arrangements is clear – the availability and use of flexible work is essential if parents, particularly mothers, are to be fully effective in the workplace while also being responsible for childcare. A substantial body of research has shown that access to flexible working arrangements is an incentive for employees to choose one employer over another.<sup>1</sup> When employees are able to effectively meet their family and work responsibilities through flexible work, they are more productive, have higher job satisfaction, and are less likely to leave.<sup>2</sup>

This is a 'good news' story for employers, yet resistance to flexible working arrangements persists in many places. This makes it difficult for employees to request flexibility, while also making it more likely that requests will be refused.

### Impediments to provision of flexible work

In the Productivity Commission Draft Report, it is noted that some participants expressed concerns about providing flexible working arrangements and other forms of support for employees with family and caring responsibilities. From these comments, it seems that there are both demand and supply impediments to employers providing flexible work arrangements for parents.

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<sup>1</sup> Diversity Council Australia, *Men get flexible! Mainstreaming flexible work in Australian business*, 2012, Diversity Council Australia: Sydney.

<sup>2</sup> Carlson, D., J. Grzywacz, and K. Kacmar, *The relationship of schedule flexibility and outcomes via the work-family interface*. *Journal of Managerial Psychology*, 2010. **25**(4): p. 330-355.

On the demand side, the Fair Work Act provides for employees to make a request, but has no provision for appeal if an employee believes their request has been unfairly refused. This is a disincentive for employees to request flexible work, particularly if the workplace culture is not generally supportive of non-standard working arrangements and employees fear their employment may be jeopardised if they ask. In turn this reduces the likelihood that parents, and particularly mothers, will be able to fully participate in the workforce.

There appear to be more varied impediments mentioned on the supply side – employers may not be able to accommodate flexible work; they may not be able to afford it; and they lack incentives to make any effort to introduce it. The first two of these concerns are primarily focused on potential costs to the business of accommodating flexible working arrangements. For example, there may be recruitment costs if a full-time employee shifts to part-time work, or there may be overtime costs if one employee is asked to cover time when another is absent due to flexible work arrangements. The need to adjust schedules and work patterns to accommodate flexible work is also noted as a potential extra administrative cost.

The third of the impediments mentioned relates to employers lacking incentives to make reasonable efforts to introduce and support flexible working arrangements. While the type of incentive is unclear from the comments in the report, it could be a positive incentive like, for example, a tax break for supporting flexible work. Alternatively, it could be a negative incentive such as a penalty for not supporting flexible work.

A further impediment which is not specifically mentioned in the draft report is the negative attitude of managers towards flexible working arrangements. For example, some managers may believe that wanting to work flexibly shows a lack of commitment to the job. These attitudes are based on an individual's bias towards a particular way of working as being the only 'right' way, and they may strongly influence decisions to refuse requests. In this way, the personal views held by managers may hinder a company's efforts to introduce flexible working arrangements.

## **Approaches to overcoming impediments to flexible work**

At present, the "right to request flexible working arrangements" provision in the Fair Work Act does not place any onus on the employer to ensure that refusals are grounded in immutable business needs. Some organisations have managed to navigate this problem effectively, and Telstra is a case in point.

Telstra has adopted the approach of making all roles in the organisation flexible, so that flexibility is now the starting point for work. If a manager wants to refuse a request for flexibility from any employee, then the onus is on the manager to show that the role cannot be done flexibly and that flexible working would result in a significant business impact. In doing this, Telstra has sought to make flexibility the norm rather than the exception in the organisation.

There will of course be circumstances where an employer simply can't offer flexible work in a particular type of job without penalty. Other employers may be able to accommodate some requests if they negotiate about the type of flexible work (e.g. job sharing arrangements or telecommuting rather than part-time hours or time-in-lieu).

Expanding the Fair Work Act provisions to ensure that requests for flexible work can only be refused on more clearly specified grounds would help to address these impediments to the provision of flexible work. Including a process of appeal for employees who feel their requests have been unfairly refused would also help to incentivise both employees to request and employers to more carefully consider their reasons for refusing.