

EXECUTIVE SUMMARY

WAKE UP CALL: FEW EMPLOYERS ARE READY FOR THE R2R AND TIME IS RUNNING OUT

RIGHT TO REQUEST FLEXIBILITY (R2R) NATIONAL EMPLOYMENT STANDARD SURVEY REPORT

3 SEPTEMBER 2009

EXECUTIVE SUMMARY

The Federal Government has overhauled Australian industrial relations and introduced ten National Employment Standards through the *Fair Work Act 2009*. One of these Standards is the “Right to Request Flexibility” (r2r) which will commence on **1 January 2010**. Set against a background in which employers are coming to terms with other major changes introduced by the *Fair Work Act 2009* on 1 July 2009, and dealing with the Global Financial Crisis, the r2r Standard is at risk of being overlooked. This is of real concern given that the r2r Standard provides eligible employees¹ with significant entitlements, and imposes strict process and decision-making obligations on employers.

To identify whether employers and employees are aware of the r2r, and more importantly whether they are ready for 1 January 2010, Aequus Partners (a diversity and flexibility management consulting firm) together with CCH Australia (a publishing company) conducted a survey of diverse Australian organisations. The majority of the 529 respondents were practitioners in Human Resources (HR), diversity or law, and given their expertise these respondents could be expected to have a high level of insight into practical r2r implementation issues.

Findings from the survey cover (i) knowledge about the r2r; (ii) the current state of play in relation to flexibility implementation; and (iii) r2r implementation strategies. Three key findings from the survey are:

¹ Employees (permanent or long term casuals) who are parents of children under-school age, or a child under 18 who has a disability, have a right to request a “*change in working arrangements*” to enable them to provide care: section 65(1) FWA.

1. **Over 80% of respondents rated employees' and managers' knowledge of the r2r as either non-existent or low.** This suggests that the majority of employees don't know how to make a request under the r2r so that it is compliant, and the majority of managers don't know how and when to respond. Notably very few respondents (11%) felt "very" or "extremely confident" that managers will be able to implement the "reasonable business grounds" test². Unless employers act now, confusion will abound on 1 January 2010, non-compliance will be a certainty and access to flexibility for eligible employees will be thwarted.
2. Notwithstanding this apparently dangerously low knowledge base, **3/4 (74%) of respondents expect that the r2r will in fact generate more work**, ie requests for flexibility by eligible employees (and 59% expect that requests will be made by ineligible employees as well), which will require consideration and response. Without the introduction of new and streamlined processes, this workload will become overwhelming.
3. A lack of knowledge about the r2r, coupled with an expected increase in requests for flexibility, means that **HR practitioners have a swag of work cut out for them over the next 3 months**. 95% intend to introduce r2r guidelines; 91% will run training for managers; and 89% will update policies. Intentions are good – but distractions are aplenty – and the clock has started ticking.

BACKGROUND

To help employers identify priority actions relevant to the new "Right to Request Flexibility" National Employment Standard (r2r), in August 2009 Aequus Partners, in partnership with CCH Australia, surveyed their combined Australian databases³ on (i) knowledge gaps in

² An employer must respond in writing within 21 days of an eligible employee's written request for a flexible work arrangement. The response must identify whether the request is granted or refused, and if refused the response must detail the reasons why. These reasons must demonstrate that the refusal was made on "reasonable business grounds": sections 65(4), (5) and (6) FWA.

³ 529 respondents completed the on-line survey, from a diverse range of small, medium and large Australian organisations, in the private (68%), public and not-for-profit sectors. Of those who identified their job role (432 respondents), 63% self-identified as holding roles in Human Resources (HR) or diversity.

relation to the r2r; (ii) the current state of play regarding the implementation of flexible work practices; and (iii) r2r implementation strategies. The key finding is that over **80% of respondents rated employees' and managers' knowledge about the r2r as either non-existent or low**. HR practitioners have a clear swag of work ahead to address this gap before 1 January 2010 when the r2r commences, but time is running out.

KEY FINDINGS

1. Knowledge about the r2r:

- (i) *Danger danger: Managerial and employee knowledge about the r2r appears to be dangerously low;*
- (ii) *HR's knowledge is tracking in the right direction, but a top-up is needed; and*
- (iii) *High expectations: More requests for flexibility are expected.*

2. The current state of play:

- (i) *A few gold stars and much muddling along;*
- (ii) *A lot more heart than handiwork; and*
- (iii) *We don't know what we don't know.*

3. r2r implementation strategies:

- (i) *Policies, processes and practices: A swag of work before 1 January 2010; and*
- (ii) *A flexibility tracking blind spot?*

SURVEY SAMPLE CHARACTERISTICS

Survey mode: On-line survey conducted in August 2009.

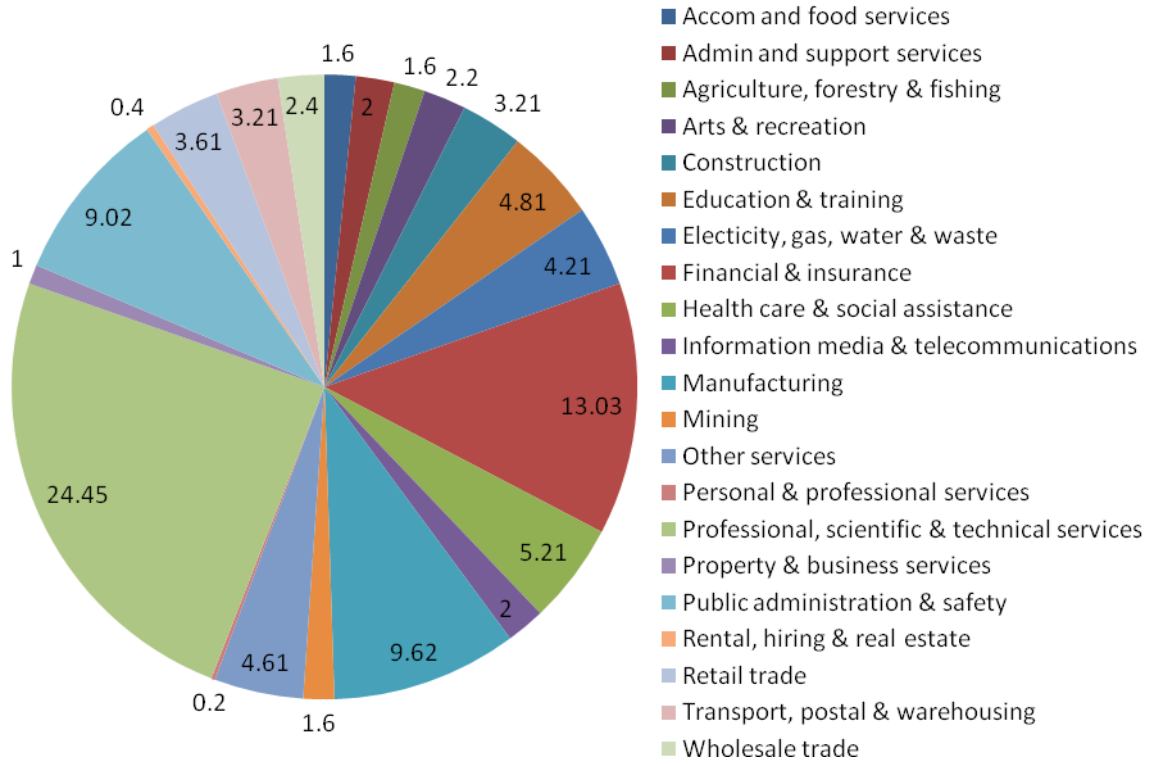
Sample size/source: 529 Australian respondents from the newsletter databases of Aequus Partners and CCH Australia.

Role: 432 self-identified their role, 63% of which nominated HR/diversity.

Organisational type: Private sector (68%); public sector (23%); and not-for profit (9%).

Organisational size: Small (1-19 employees): 14.7%; medium (20-199 employees): 50.09%; large (200-4999 employees) 20.10%; and very large (5000+ employees): 13.10%.

Industry type:



Graph 6: Industry type

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