

NEW FAMILY FRIENDLY WORK ARRANGEMENTS START - 1 DECEMBER 2018

As part of the four-year review, the Fair Work Commission has finalised a model clause to be inserted in all modern awards dealing with requests for flexible work arrangements. The new obligations in the model work flexible work arrangements clause will allow certain employees to request a change in working arrangements based on their parental or caring responsibilities. This clause will commence operating in all modern awards from 1 December 2018.

Where an employer receives a request for flexible work arrangements the employer will be required to take the following steps before responding to an employee:

- discuss the request with the employee
- genuinely try to reach agreement on a change in working arrangements that takes the employee's circumstances into account including, the employees' needs, the consequences for the employee if the changes in working arrangements are not made.

If an employer refuses the request, the written response must now include:

- details of the business ground(s) for the refusal and how those grounds apply (*it should be noted that employers will continue to be able to refuse requests which are based on (genuine) reasonable business grounds*); and
- details of alternative working arrangements the employer can offer to better accommodate the employee's circumstances; and
- if so, details of those changes in working arrangements.

Under the model award clause, if the employer and the employee reach an agreement on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed changes(s) in working arrangements.

An employer is required to give the employee a written response to the request within 21 days of receiving the request, therefore employers should develop procedures to ensure that the discussions take place within the first 10 days of receipt of the request and all appropriate documentation and procedures are developed.

Please note: this clause is not intended to apply to employees requesting flexible work arrangements due to a disability, being over 55-years of age or experiencing domestic violence.

WHAT DOES THIS MEAN FOR VACC MEMBERS?

Many members may already have practices in place, therefore this change may not be too onerous. However, members are encouraged to review existing policies and procedures to ensure they are compliant with the new provisions and seek advice from VACC if they feel there are deficiencies and require assistance. Please call VACC IR for further assistance on (03) 9829 1123.