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Sent: Friday, April 12, 2024 12:26 PM

To: Awards <Awards@fwc.gov.au>

Subject: AM2023/21 - Modern Awards Review - Work and Care Stream - Feedback on proposed survey questions

Dear FWC,

Thank you for the opportunity to provide feedback on the proposed survey questions. We have some specific feedback on particular questions in the table below.

By way of general comment:

- The phrase “workplace flexibilities” can be interpreted in very different ways – flexibility can mean very different things to employers and employees, and there is a distinction made in the literature between ‘good flex’ and ‘bad flex.’ For example in some industries part time employment is used in such a way that results in flexibility for employers but results in less secure, predictable work for employees. Therefore what is meant by workplace flexibilities should be defined as arrangements which give employees flexibility without undermining terms and conditions, such as flexible workplace arrangements, working from home arrangements, IFAs and facilitative provisions, and could include examples such as part time work, reduced hours/changes to hours of work, changes in patterns of work, changed start and finish times, flexibility with hours, job sharing, working from home/other changes in location of work, time off in lieu, additional personal/carer’s leave.
- It would be helpful if the survey included questions about employers use of technology to roster (eg use of algorithmic rostering, apps, portals etc) and how employees request flexible working arrangements or are consulted about changes to their work arrangements in those circumstances where such technology is being used.

Question	Problem	Suggestion
1 What workplace flexibilities are available to employees?	Nothing in current questions about whether employees are aware of whether workplace flexibilities are available to them.	Include a sub-question within question 1 ‘how are employees made aware of the workplace flexibilities available to them?’
2a How common is it for employees to have flexible working arrangements?	The broader question concerns ‘workplace flexibilities’, but this sub-question deals with flexible working arrangements. This needs to be clarified to generate useful data. The invitation to comment on ‘how common’ it is for employees to access flexibilities is imprecise.	Reframe sub-question 2(a) to ‘What proportion of employees access workplace flexibilities?’
2b what workplace flexibilities are requested by employees?	There is no question about what kind of workplace flexibilities have been approved by the employer, and which have not. This is useful data in terms	Include another sub question ‘What types of workplace flexibilities have

	of the kinds of flexibilities that are actually approved (not just theoretically available).	been approved by the employer’?
2c what are the reasons for requesting flexible working arrangements	The broader question (and question 2(b)) concern ‘workplace flexibilities’, but this sub-question deals with flexible working arrangements. This needs to be clarified to generate useful data	Reframe sub-question 2(c) to ‘what are the reasons for requesting workplace flexibilities’
3 What are the operational considerations for accommodating workplace flexibilities?	Question 3 refers broadly to ‘workplace flexibilities’, but all of the sub questions refer to flexible workplace arrangements. The language should be consistent – either all sub questions should refer to workplace flexibilities, or question 3 should only be about flexible working arrangements.	Either all sub questions should refer to workplace flexibilities, or question 3 should only be about flexible working arrangements.
3c What proportion of requests for flexible working arrangements are approved? In cases where employees with caring responsibilities request flexible working arrangements are denied, what are the primary reasons for refusal?	This sub-question poses two questions.	Break sub-question 3c into two questions.
3d What have been the typical outcomes when employees with caring responsibilities in the business have encountered, but not met operational requirements for approval of flexible workplace arrangements?	Not clear on what this question is asking – needs to be clarified.	Suggest reframe to ‘what have been the typical outcomes when employees with caring responsibilities have not had their requests for workplace flexibilities approved?’

<p>5 Are there changes that could be made to the relevant workplace instrument(s) to make it easier for employers to approve flexible working arrangements to assist employees to balance work and caring responsibilities?</p>	<p>This question is problematic. It essentially invites submissions about award variations as opposed to evidence about the operation of workplace flexibilities. The Commission should be cautious about this type of question when it is unable to provide procedural fairness to the parties (e.g. make the researcher available for cross examination or share the researcher's working papers).</p> <p>There is also the consideration of fairness. Employees have not been asked to give their views about changes to modern awards to accommodate workplace flexibilities through a similar survey. They may have different perspectives on accessing workplace flexibilities and the necessary award variations. This question should not be asked of employers unless employees receive the same treatment.</p>	<p>Delete.</p>
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Kind regards,

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We acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past and present.