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THE 'RIGHT TO REQUEST' FLEXIBLE WORK IN THE NEW ZEALAND PUBLIC SERVICES*

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ABSTRACT

Recent legislative changes within New Zealand place a duty on employers to consider flexible working requests from employees with caring responsibilities. The reshaping of working time and the provision of flexible work arrangements (FWAs), through the recently enacted ‘right to request’ legislation, is designed to provide workers with greater ‘choices’ about *when* and *where* they work. The provision of such flexible work choices is seen to be key in enabling workers to reconcile their working lives with their domestic responsibilities. This paper draws on large scale survey research which explores the nature of flexibility and voice exercised by women in the New Zealand public services. The findings reveal that women have influence in how they do their tasks and take their breaks but have little voice in the organisation and pace of their work. Furthermore, against a background of rising workloads and time pressures, this research highlights that the uptake of flexible work ‘choices’ is increasingly difficult to access. It finds that the burden of organising FWAs, and of managing competing workload issues, is pushed down to the individual worker. In short, the research argues that the provision of FWAs in the form of ‘right to request’ legislation is an exercise in certain forms of constrained ‘voice’ rather than an exercise in worker ‘choice’.

Keywords: Flexible work, legislation, choice, voice, women.

INTRODUCTION

Public sector organisations within New Zealandⁱ, as elsewhere, face increasingly complex environments. State-driven reforms, tighter fiscal management, combined with an increase in the demand for public services, have brought issues of transparency, accountability, and participative forms of governance to the fore. As a consequence, many workplaces have sought to implement greater organisational flexibility and tighten management processes to improve workplace productivity (Foley and Polanyi, 2006). It is against this background of productivity improvements and employer-driven flexibility that employees face significant changes to the nature and content of their work. The pace of change, alongside greater awareness of the psychological and social impact of work has encouraged employees to seek greater input into the decisions that shape the organisation of their working lives (Butcher and Clarke, 2002).

In the pursuit of greater worker input, gender is seen to be particularly significant (Collum, 2000). Women's 'voice' in shaping work organisation has been emphasised by rising levels of representation (particularly within non-standard forms of employment), shifting family structures, and an increase in the breadth of caring responsibilities they typically face. Reflecting these trends, issues of work-life balance (WLB), through the provision of flexible work arrangements (FWAs), have recently been recast in terms of 'choice and constraints'. In a special issue of *Gender, Work and Organization*, Gregory and Milner (2009: 10) reflect on 'whether work-life balance is freely determined by individuals or whether it is constrained by a wide range of factors operating at a micro (individual), meso (organisational) and macro (national) level'. They conclude that individual choice is largely constrained by a range of factors including prevailing organisational and national gender cultures, along with wider socioeconomic factors and the stages in life or career an individual occupies.

Drawing on these issues, and wider debates surrounding the exercise of individual 'choice', this paper explores the provision of formal espoused gender equality policies and the outcomes they provide for workers in the New Zealand public sector. It presents findings from a survey of over 7,000 women workers,

providing insights into the degree of workplace flexibility this group of workers have within their jobs and their scope to shape the organisation of their daily work. The analysis reveals evidence regarding the factors that influence access to and uptake of flexible work provision. The paper begins with a review of the rise of workplace flexibility agendas before describing the New Zealand legislative context for the provision of flexible working arrangements. While workplace flexibility is widely couched in terms of worker ‘choice’, this paper asks whether the current legislation rather supports flexibility as a matter of ‘voice’. In order to explore this question the paper analyses the provision and up-take of flexible working arrangements for women workers in the New Zealand public services.

FROM WORKFORCE TO WORKPLACE FLEXIBILITY

A concern with flexibility within organisations gained momentum during the 1980s with the introduction of Atkinson’s (1984) model of the ‘flexible firm’. Envisaged as an organisational form that promoted the segmentation of workforces through the adoption of numerical, functional and financial flexibility strategies, the ‘flexible firm’ model established a basis upon which subsequent debates regarding flexibility and employment restructuring have since centred (Pollert, 1991; Kallenberg, 2001). Today, an interest in flexibility has shifted away from *workforce* segmentation models of flexibility towards *workplace* flexibility and the provision of FWAs. Contributing to a demand for workplace flexibility is an increase in women’s labour market participation, a growth in the diversity of family structures, an extension of traditional caring responsibilities and the rising prominence of boundaryless and ‘flexible’ careers. While greater attention has shifted towards the provision of workplace flexibility, the nature of that provision and form it takes varies across different employment regimes, and groups of workers.

The case for flexible working is strong. Support for workplace flexibility is based on a shared belief that the provision of FWAs is beneficial to all. For employers, the benefits of adopting FWAs is believed to include improvements in the attraction and retention of key staff, increases in staff morale, improvements in quality, productivity and absenteeism, reinforcement of worker loyalty and commitment, and

an overall ability to respond more effectively to labour market changes (DOL, 2008; Kelliher and Anderson, 2010). Often employers argue for greater responsiveness in the face of intensifying global competition and developments in informational and communication technologies (Kallenberg et al., 1997; Eurofound, 2007). In response, organisations have turned to alternative sources of flexibility including the use of non-standard workers to vary the size and composition of their workforces (Kallenberg et al., 1997). In short, the adoption of new technologies and new forms of work organisation in the strive for efficiencies and improvements in productivity, often underscores the ‘business case’ for greater contractual and functional flexibility (Walsh, 2009).

In contrast, governments regard the provision of flexible work as critical to the promotion of national economic, social growth and the creation of an inclusive society. For some governments it is the balance between flexibility and security that shapes the provision of flexible work arrangements. For example, within the European Union the approach has been towards equating labour flexibility for employers with employment security for employees – an approach they term *Flexicurity* (Eurofound, 2007). This debate according to Ferrera, Hemerijck and Rhodes (2001: 21) ‘is inherently related to the feminisation of the labour market and the changing status of part time work in Europe’. Likewise, Oeij and Wiezer (2002) point out that issues of job security are more pronounced for women given their poor representation in senior and managerial positions. They argue that women typically work in more precarious roles in which they have less control of work schedules and less influence in decision making (Oeij and Wiezer, 2002).

For workers, it is the pace of change in response to external market forces that drives their need for greater security and access to flexible work arrangements or temporal flexibility. The benefits of flexible working for workers are said to include improvements in job satisfaction, self-autonomy, work-life balance and reduced stress (Gregory and Milner, 2009; McDonald, Brown and Bradley, 2005). For example, research by Kelliher and Anderson (2008) demonstrated that workers in the UK experience higher levels of job satisfaction, due to feelings that they had more control over their work. While these authors found that workers with flexible work arrangements felt loyal to their organisation for accommodating their needs and were

more willing to increase their effort as an act of gratitude, the research also showed that workloads had not decreased when hours reduced and thus workers needed to be extremely focused. Thus, while flexible work practices and the ‘exercise of choice’, especially when driven by the employee can lead to higher levels of job satisfaction and organisational commitment, it can also lead to higher levels of work intensification (Kelliher & Anderson, 2008). Kelliher and Anderson call for greater insight into the *context* within which these forms of flexibility operate including constraints of gender, workplace culture and norms.

Thus, while there is much discussion surrounding access to FWAs and the benefits for workers, empirical research paints a more complex picture of worker outcomes (Skinner and Pocock, 2011). A recent meta-analysis of existing research on the effect of flexible work interventions on employee health and wellbeing suggests that espoused benefits depend on *who* exercises the control and choice (Joyce, Pabayo, Critchley and Bambra, 2010). Joyce et al. (2010) found that FWAs that increase worker control and choice, and in particular the ability of workers to set their own work schedules, are likely to have a positive effect on health outcomes. In contrast, they found that FWAs that were predominantly motivated by organisational interests, such as fixed-term contracts and involuntary part-time employment, produced vague or negative health effects. Similar research by the Federal Institute for Occupational Health and Safety in Germany (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin, BAUA) also found high variability in working hours to be closely associated with increased risks for physical and mental health and well-being, especially when the variability was company - rather than employee-controlled. From a worker perspective, the message is clear: the positive health and welfare benefits of flexible working can only be gained if the worker has some control and choice in their uptake of FWAs.

Even so, the research suggests that FWA is not shared equally by all and is indeed less likely to be available to those more likely to seek access to FWAs. Research by Golden (2008), utilising data from the U.S. Current Population Survey (CPS) (May 2001 Supplement on Work Schedules and Work at Home), found that there are significant differences in the access to FWAs between men and women. She found that being female reduced the probability of having a flexible schedule by 3-5%;

that those working 50 or more hours per week had a 12-13% greater likelihood of having schedule flexibility; that part time workers were 18% more likely to have flexible schedules than those with the traditional 40 hours per week; and that women were 2-5% more likely than men to have at-home work. It was further found that cost-savings, rather than workers' needs, appeared to determine the allocation of flexible scheduling in organisations. Flexible scheduling was used as a reward designed to promote retention of workers with relatively more leverage in the labour market; such as the higher educated, white workers and men. Furthermore, a recent report on European practices has revealed that flexible working time arrangements often provide little support for people with children (Eurostat, 2007). Indeed, workers with children seem to be less likely to work in jobs with flexible working arrangements than those without children. As might be expected, men and women aged 25-49 in relatively high-skilled jobs are more likely to have some flexibility over working time arrangements than those in lower-skilled occupations (Eurostat, 2007).

In examining the impact of FWAs, Hegewisch (2009) found that the introduction of flexible working legislation across a number of European countries was designed to increase labour force participation and address labour shortages and not, as originally expected, to address gender equality. Critics argue that the rise in numerical and functional flexibility has largely been due to organisational attempts to increase efficiency and cost-save rather than an effort to enable workers to balance work and family responsibilities (e.g. Sheridan and Conway, 2001). Sheridan and Conway (2001) argue that competing discourses of flexibility which alternatively emphasise benefit for workers or organisations must be highlighted and focus should be on achieving mutual flexibility for both workers and organisations. While the empirical research suggests a complex picture of worker outcomes, it provides little insight into the management and implementation of flexible work.

INSTITUTIONAL APPROACHES TO FLEXIBLE WORK ARRANGEMENTS

It has been noted that a country's institutional context has largely influenced the framing of its flexible working legislation (Hegewisch, 2009). Broadly speaking, legislative approaches to the provision of workplace flexibility on an international

basis can be categorised into one of two main approaches - to either extend the right of certain groups of workers to request flexible working arrangements; or, to guarantee parents or all workers the right to work reduced hours. The provision of reduced working hours for specific periods of time to accommodate a range of work-life needs, beyond caring responsibilities, is an approach favoured by a number of many Nordic and Western European countries and is seen to be indicative of a more 'life-cycle' approach to flexible working (Heathrose, 2010). In contrast, the UK, Australia, The Netherlands, Germany and New Zealand have recently introduced legislation extending the rights of certain groups of workers to 'request' flexible workplace arrangements (Skinner and Pocock, 2011). Designed to provide workers with caring responsibilities (that is 'carers') the opportunity to request greater flexibility in the structure of their work, there exists significant differences in the scope and provision of this piece of legislation even between those countries (see Table 1). This, according to Hegewisch (2009), also reflects differences in the impetus for its introduction.

The 'right to request' legislation was first introduced in the UK as part of the government's drive to increase women's participation rates and to address gender equality issues (Hegewisch, 2009). Regarded as a 'soft law' in that it legislates for a 'limited' right to a process with no ability to appeal a refusal, the low level of reported success has been seen by some to have further entrenched gender divisions (Himmelweit, 2007).

Within New Zealand itself, significant legislative changes have sought to improve the working conditions for parents in recent years. These changes include the Parental Leave and Employment Protection (Paid Parental Leave) Amendment Act (2002), the Employment Relations (Flexible Working Arrangements) Amendment Act (2007) and the Employment Relations (Breaks, Infant Feeding, and Other Matters) Amendment Act (2008). According to some, such changes are in response to a growth in women's participation rates, consistently low unemployment rates and an increase in the number of 'single parent' families or 'dual career' parent families (Lafferty and Kiely, 2008).

Table 1. The ‘right to request’ legislation in the UK, Australia and New Zealand

	UK	Australia	New Zealand
Legislation	Employment Act 2003	Fair Work Act 2009	Employment Relations (Flexible Working Arrangements) Amendment Act 2007
Eligibility	At least 26 weeks continuous service	At least 12 months continuous service	At least 6 months continuous service
Objective	Better choices for working parents	Assist employees balance with work/life responsibilities	Assist parent’s work/life balance
Entitlement	Care of a child under 17 and of other dependent adults	Care of a child under school age or under 18 or with a disability	Care of any person and who has not applied under the act in the last 12 months
Grounds for refusal	Specified grounds	Reasonable business grounds	Reasonable business grounds

Source: Heathrose Research Ltd (2010).

From 1 July 2008, under Part 6AA of the Employment Relations (Flexible Working Arrangements) Amendment Act 2007, employees with caring responsibilities were given the statutory ‘right to request’ flexible working arrangements from their employer. The Act is inclusive of any person who has ‘caring responsibilities’, has been employed by their employer for 6 months or more and has not made another request, under the act during the past 12 months. The Act does not define “care” or require a particular level of care. It can include caring for children or adults, and there is no requirement to be related to those cared for or to live in the same place.

Under the Act, the onus is on the employee to outline the changes the employer may need to make if the request is approved. Employers have a ‘duty to consider’ any requests from their employees and respond within three months. Employees may not challenge their employer’s refusal of a request unless they believe that the legislation has not been complied with. Advice from the Department of Labour to those wanting to apply for FWA is that ‘your application is most likely to succeed if it shows consideration for your employer’s business needs’ (DOL, 2008: 5). While not

reinforced through legislation, the New Zealand Department of Labour (DOL) outline the responsibilities of both parties ‘as a form of good practice’ under the act (see Table 2).

Table 2. Rights and responsibilities under the Flexible Working Arrangements Amendment Act 2007*

Employee Rights	Employer Responsibilities
To request a variation to their hours of work, days of work or place of work.	To provide the employee with appropriate support and information during the course of the request.
To have their request considered properly in accordance with the set process and refused only where there is a Recognised Business Ground for doing so.	To consider requests properly in accordance with the set process. To adhere to the time limits contained within the process.
Where a request is refused to have an explanation for the ground for refusal.	To refuse a request only where there is a Recognised Business Ground and to explain to the employee why it applies.
To seek assistance from the Department of Labour. In certain circumstances, take a complaint to mediation and the Employment Relations Authority.	To ensure that any variation of the process is agreed in advance with the employee and recorded.
Employer Rights	Employee Responsibilities
To reject a request where there is a recognised business ground for doing so.	To ensure their request is valid by checking that all the eligibility criteria are met and that they have provided all the necessary information. To provide enough information to enable their employer to give their request proper consideration. To be prepared to discuss their request in an open and constructive manner. If necessary, be prepared to be flexible themselves in order to reach an agreement with the employer. To ensure the request is made well in advance of when they want it to take effect.
To seek assistance from the Department of Labour.	

*Adapted from (DOL, 2008, p. 7).

From the list presented in Table 2, it is clear that the rights of the employee are limited to the consideration of flexible work arrangement *requests* and do not extend to the facilitation or implementation of such arrangements. Furthermore, employers have the right to decline a request primarily on one or more recognised business grounds. Such grounds can include: an inability to reorganise work or to recruit additional staff; when it is likely to have a detrimental impact on quality or performance or effect to meet customer demand; where there is likely to be insufficient work during the time the employee proposes to work; planned structural changes and burden of additional costs.

In the US, Kelly and Kalev (2006: 379) have argued that the provision of FWAs ‘institutionalises managerial discretion rather than creating outright rights for employees’. In practice, they found the provision of FWAs to be often managed as a workplace ‘perk’ for ‘valued’ employees and to be dependent on managerial choice. In the current NZ legislative framework for FWA this may well be the case.

Current debates within New Zealand, as elsewhere, centre on extending the right to request to all employees irrespective of their caring responsibilities (Heathrose, 2010). Such a position is borne out of fairness of access to all employees (thus extending the notion of an individual right). As it stands, the current legislation which provides the ‘right to request’ exclusively to carers has been critiqued on the basis that it entrenches divisions between carers and non-carers, i.e. where those with caring responsibilities are perceived to be ‘privileged’ based on their protected right to request FWAs (Heathrose, 2010).

MATTERS OF ‘CHOICE’ AND VOICE IN FLEXIBLE WORKING

One of the arguments for mandating the provision of FWAs in New Zealand was, according to the Department of Labour, to provide workers with ‘more choice about the way they work, including having more input into rosters and shifts, and choosing the number of hours they work’ (Department of Labour, 2006: 1). However, notions of choice for employees, and women in particular, are not straightforward (Tomlinson, 2004; de Menezes and Kelliher, 2011). Liberal feminist analysis of women’s

participation in the labour force places the notion of ‘choice’ as essential to women’s equality in, entry to, and progression within, workplaces. Under this approach, women’s entitlement to choose their life and work patterns is central (Baker, 2008; Barns and Preston, 2002). In contrast, feminist poststructuralist and other critical scholars argue that choice rhetoric needs to be used with caution (Baker, 2008; Todd and Binns, 2011). As Baker (2008) argues, the rhetoric of choice reflects an individualized neo-liberal ideology that obscures disadvantages of class, race, sexuality and gender through the construction of an independent and self-reliant individual.

A mandated ‘right to request’ approach hides from view the social, political, and organizational constraints that women and men face when making their work and family responsibility choices (Dwyer and Roberts, 2004). Thus, if ‘right to request’ legislation offers workers more choice, it is crucial to understand the conditions under which that choice is made and how choice is exercised and managed. The concept of ‘voice’ can usefully inform how FWAs operate and the effects they have.

The Flexible Working Arrangements Amendment Act provides individual workers with caring responsibilities, the chance to request FWAs and the choice of the employer to refuse. Provision in effect provides carers with the opportunity to exercise *direct voice*. As a field of research, worker voice has largely focused on the relationship between formal voice practices and productivity (Bryson, Charlwood and Forth, 2006), the rise of direct voice regimes (Dundon and Gollan, 2007) and the impact of direct and indirect forms of voice in matters of organisational efficiency (Wilkinson and Fay, 2011). While there has been some recent movement towards understanding the relationship between voice and gender, particularly in relation to ‘non-standard employment’ (Markey, Hodgkinson, Kowalczyk and Pomfret, 2001), much of the research on voice and gender is silent or ‘gender blind’ (Holgate, Hebson and McBride, 2006).

Constraints on the choice of work life patterns and how flexible working arrangements might be managed raise questions regarding whether the ‘right to request’ FWAs is matter of choice of or of direct voice. As Hales and Klidas (2008: 89) note, issues of choice and voice are often presented as tradeoffs within

organisations: ‘there is disagreement about whether increased employee discretion entails, or should entail, more “choice” over how work is done (Conger and Kanungo, 1988; Morris, 1995) or greater “voice” in decisions relating to the organisation as a whole (Hecksher et.al., 1994; Pfeffer, 1995’). These authors ask whether initiatives for greater worker voice merely transfer responsibility for work decisions or ‘involves a real transfer of power’ which enables greater influence of organisational practice.

In summary, within New Zealand the provision of flexible working is currently framed as a matter of individual choice. Such an approach extends the ‘rights’ and choices of some but not all workers. However, without positioning FWAs within a ‘rights and *responsibilities*’ framework it remains unclear as to who is responsible for the implementation and management of FWAs. In short, without defining who is responsible this legislation could remain a mechanism of direct voice which would do little to extend the flexible work choices of workers. Finally, a ‘right to request’ approach may simply individualise the risk of FWAs to select workers with no recourse to collective voice. More knowledge about the work context within which FWAs operate is needed to evaluate the potential outcomes of such legislation on women’s working lives.

RESEARCH METHODOLOGY

Survey design

This research reports on the role of women’s voice and participation in shaping flexible work outcomes in the New Zealand public services. A range of work issues related to flexibility and voice at work were considered including influence over working arrangements, ability to shape careers, and participation at the decision-making level of their organisations and union. Invitations were initially sent to 33,304 women members of the Public Service Association (PSA) welcoming them to participate in the survey. The PSA is the largest trade union representing workers in New Zealand and at that time represented around 57,000 workers in the public services, almost 60% of whom were women. Further invitations to participate were circulated through the union newsletter and other union communication. Participation

in this survey was on a voluntary basis. Effort was made to gather responses from the fullest representation of women members as possible. Members without email access were offered alternative ways to participate and two follow up reminders were sent to respondents with unique coded URL inactivated links. The anonymity of respondents was ensured through the removal of identifying information from individual responses.

A questionnaire was constructed to measure the occurrence and frequency of specific work practices, along with the importance of values for individuals and organisations and satisfaction with conditions. Issues addressed in the questionnaire included: the responsibilities that workers carried with them into the workplace, working time arrangements, overtime working, the influence workers had in shaping their daily work, and factors that worked against respondents pursuing greater flexibility in their work. The respondents were also asked about their familiarity with the Flexible Working Arrangements Amendment Act and their up-take of the 'right to request' provision. The questionnaire took 25-30 minutes to complete online.

Following the piloting of the self-administered online questionnaire, the survey was open for completion for three weeks between the 3rd of June and the 24th of June 2010. In total 7,292 valid responses were received, representing a response rate of 21.9%.

Respondents

The respondent group can be characterised as a stable and committed group of workers who were on average, older, more highly educated, and higher earners than the national average.

The average age of the respondents was 46 years, although ages ranged from between 19 to 80 years. In terms of ethnicity, most of the respondents identified themselves as New Zealand European/ Pakeha (69.7%), while just over 30% identified with one or more other ethnic minority group. 15.4% of the respondents identified themselves as Māori which represents a slightly larger proportion than the New Zealand workforce at large (14.9%) (DOL, 2008). Education levels of the respondents, especially at tertiary level were significantly higher than the national average. Over 70% of those surveyed had a post-high school certificate or higher,

while just over four in every ten respondents had obtained a bachelor degree or higher. This compares to just 21% of the New Zealand working population holding a bachelor degree or higher in 2008 (StatsNZ, 2008).

In terms of employment patterns, the majority (76.9%) of those surveyed had worked in their organisation for more than three years, while almost a third (28.5%) had worked in that same organisation for over 11 years. A range of different kinds of employment agreements governed the work of the respondents. Representing a relatively stable group, 87% of the respondents were found to be full-time working and 12.3% were found to be working part-time. The vast majority of those surveyed (93.2%) were employed under a permanent or ongoing agreement. In line with their organisational longevity, advanced education and older age, the respondents earned a higher than national average gross annual salary (\$40,000 or more, compared to \$32,760 for all women workers in New Zealand) (StatsNZ, 2009).

FINDINGS AND DISCUSSION

The following discussion outlines the respondents' work/life patterns, their access to FWAs in the New Zealand Public Service, the factors that shape that provision and uptake of FWAs, and the degree of influence they have in shaping the organisation of their immediate work environment. These findings provide an indication of how much formal and informal flexibility workers have in their work, which we then compare to the extent of work-life fit they reported.

Work-life patterns

To gain an insight into the caring responsibilities of the respondents, a series of questions were asked of the sample regarding the nature and extent of their caring responsibilities. As previous research has noted, women in particular face the extension of their traditional caring responsibilities to now include the care of elderly parents. Our research found that almost a third of the workers surveyed (31.4%) reported having primary caring responsibilities for at least one child under 18 years of age. This is comparable to a national average of approximately 32% of New Zealand women in the general population who provide unpaid care for children under 18 years

of age in their household (Fursman and Callister, 2009). A much smaller percentage of women (12%) surveyed reported primary care responsibilities for at least one dependent pre-school child (under the age of five years). In addition, 8.8% of respondents indicated they had primary care responsibilities for their own or their spouse's elderly parents.

A proportion of the respondents (7.2%) had two or more primary caring responsibilities. A large group of these women workers (43%) carried the dual responsibility of caring for children under 18 years of age and elderly parents. In short, women in the New Zealand public services report the extension of their caring responsibilities. Moreover, significant tensions were found to exist between paid work and their caring responsibilities for this group of workers who have previously been described as the 'sandwich generation' (CPSU, 2010; Zal, 2001).

Aside from family commitments the respondent group was also found to be actively involved in their communities outside of their workplaces. A high number of women had volunteered their free time in community activities over the previous 12 months (77%) and 38% had contributed their time regularly to at least two different areas of the community. Thus, women in the NZ Public Service have extensive commitments outside of work, a significant proportion of which does not include caring responsibilities.

These results suggest that the provision of FWAs for carers alone does not reflect the work life patterns of women workers. In short, the extension of provision of FWAs to all workers is likely to have an important impact on how both men and women might choose to organise their working lives (Skinner and Pocock, 2011).

Familiarity with the legislation

To assess familiarity with the Employment Relations (Flexible Working Arrangements) Amendment Act 2007, respondents were asked about their knowledge and usage of the Act. Two years after the Flexible Working Arrangements Amendment Act came into effect, the majority of women surveyed (59.3%) were not familiar with the legislation. In terms of usage of this legislation, only 7.3% indicated that they had made a formal request for flexible working arrangements under the Act.

Of those who formally applied for flexible working arrangements under the legislation, 76.4% were given approval by their employer.

However, despite low familiarity with the legal provisions for flexible work arrangement requests, the women surveyed indicated that informal flexibility arrangements were often available. It is possible to learn from how informal flexibility works to predict how greater familiarity and utilisation of the FWA Act might provide better flexible work outcomes for women workers.

Working time arrangements

In terms of the informal provision and uptake of flexible work arrangements, over half of the workers surveyed (56.8%) indicated that they have some degree of flexibility with the scheduling of their work hours. In contrast, over a third (37.2%) of respondents reported having to work fixed hours with no ability to change, or having to choose between fixed working time schedules. Only a small proportion (2.2%) of the respondents reported complete autonomy in relation to the setting of their work hours.

When asked more specifically about the uptake of flexible working arrangements within their workplaces, just over half of the respondents (54.4%) reported accessing flexitime arrangements (flexible start and finish times) in the previous 12 months. In contrast, only 1.9% availed of job sharing arrangements and 12.2% reported that they had worked from home during normal work hours in the previous year. This indicates that the uptake of flexible working is predominantly confined to flexitime.

Flexible work arrangements

Other than entitled annual leave, the largest uptake of leave provision was found to be that of paid sick leave (see Table 3). 77.5% of respondents indicated that they had taken paid sick leave for an average of six days. For many, the provision for sick leave was contained in their collective agreements and could therefore be seen as a more accessible form of flexible leave. Nevertheless, high rates of sick leave could also indicate that workload and time pressure at work are having an impact on the health of workers in the New Zealand Public Service. In addition to sick leave, large

numbers of respondents had also taken other forms of paid flexible leave including: bereavement/tangihanga leave, carer's leave, family-related leave, education leave and paid parental leave. These findings indicate the importance of varied leave in the provision of flexible work. It further suggests that despite the provision of flexible work arrangements there is little uptake of these practices.

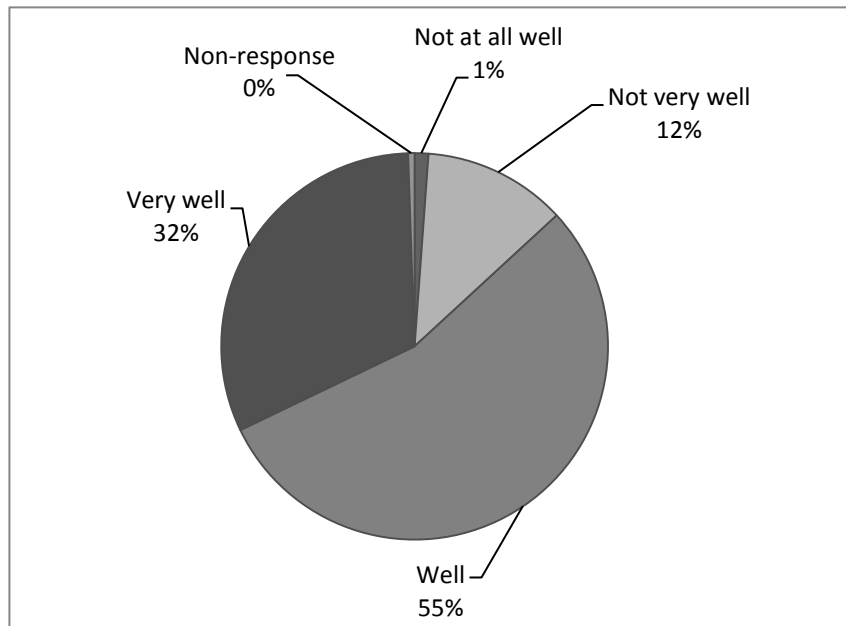
Table 3. Uptake of leave provisions

	n	%
Paid Sick Leave	5653	77.5
Paid Bereavement/ Tangihanga Leave	1742	23.9
Paid Family-Related Leave	881	12.1
Paid Educational Leave	656	9.0
Paid Carer's Leave	502	6.9
Paid Parental Leave	108	1.5
Leave without Pay	620	8.5

Work / life fit

These arrangements appeared to suit the majority of our respondents. When questioned about the balance between their work and their commitments outside of work, the majority of women members (86.3%) indicated that their current work arrangements fit 'well' or 'very well' with their commitments outside of work. Only 13.2% of respondents expressed dissatisfaction with their current work-life fit (see figure 1).

Despite a general positive indication that work and life commitments fit well for most respondents, the degree of fit for participants varied significantly according to work status and caring responsibilities. Those with primary caring responsibilities for a child or another adult were more likely to report lower levels of work-life fit than those with no primary caring responsibilities ($\chi^2(1, N = 7253) = 61.65, p < .001$). Full-time workers were also more likely to report lower levels of work-life fit than part-time workers ($\chi^2(1, N = 7214) = 40.11, p < .001$).

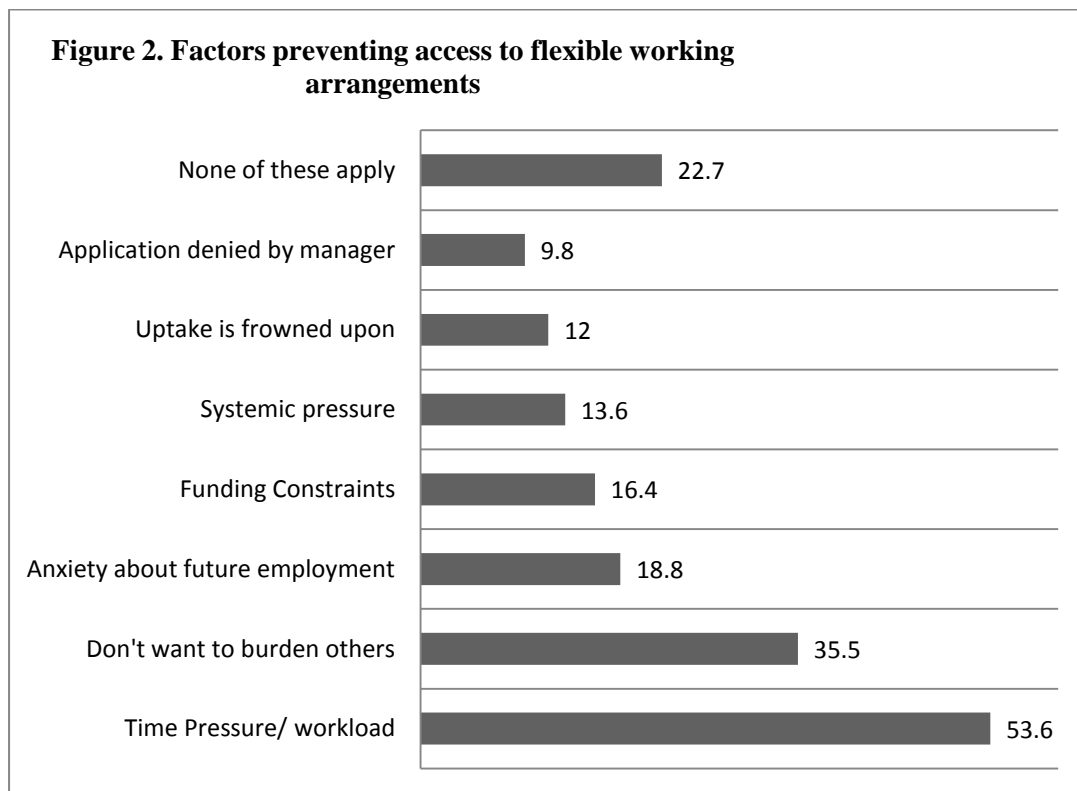
Figure 1. Work-life fit

Perhaps unsurprisingly, there was also significant variation in perceptions of work-life fit between groups of workers who have 1) no, or limited flexibility, 2) those with some flexitime arrangements, or 3) those with autonomy to set their own working time arrangements. Those with greater autonomy to set their work schedules were more likely to report the highest level of work-life fit, while those with little or limited flexibility in the setting of their work hours were more likely to report the lowest level of work-life fit ($\chi^2(2, N = 6990) = 275.79, p < .001$).

There may be significant implications of perceptions of poor work/life fit in terms of commitment to the organisation. A chi square analysis of the relationship between work-life fit and respondents' intention to remain in their current organisation demonstrates that those workers who perceived low work/life fit were more likely to be actively applying elsewhere for another job, or intended to do so in the future, than those perceiving better work/life fit. Conversely, respondents who indicated that their work fitted well or very well with their other commitments were more likely to want to stay in their current position, or apply for a higher level position in the same organisation in the future ($\chi^2(15, N = 7204) = 379.00, p < .001$). These findings align with previous literature that suggests that workers who can shape their work schedules to better fit with their other responsibilities are likely to experience a greater sense of well-being, be more satisfied at work, and demonstrate higher organisational commitment (Gregory and Milner, 2009).

Constraints to flexible working

In examining the factors that might impact on the uptake of flexible work arrangements, respondents were asked to identify from a list, the issues preventing them from accessing flexible working. The key factors preventing workers from accessing flexible work arrangements related to the nature and structure of their work. Workloads and time pressures exert the greatest barriers (53.6%) to accessing flexible work arrangements. Not wanting to burden work colleagues was also noted by over a third (35.5%) of respondents, while anxiety over future job security was noted by 18.8%. For one in ten it is the culture of their organisation or management rejection of their application that prevented them from accessing flexible work arrangements (see figure 2).



These findings indicate that there remain clear obstacles to the access of flexible working for women. While individual choice is promoted as the panacea to resolve work/life conflicts, in practice it becomes women's individual responsibility to deal with negative consequences of their flexible working choices. In a 'right to request' framework, the organisation's legislated responsibility ends at considering whether to provide for a workers chosen work pattern. This allows for the shifting of

responsibility to *facilitate* flexible work arrangements from the organisation to fall on the shoulders of the individual worker. The risk of employing flexible work arrangements to meet employee and organisational demands is individualised to specific workers.

In line with previous discussions regarding the limitation of ‘choice’ rhetoric (e.g. MacDonald et al., 2006), the findings suggest that women’s choice to enter into flexible work arrangements is far from simple. At the very best, a ‘right to request’ framework is likely to offer a highly constrained choice for women workers in the public service. The results point to a number of factors that limit the up-take of flexible working arrangements for women beyond organisational permissions. While the up-take of flexible work arrangements are couched in terms of exercising ‘choice’, the accessibility of such arrangements is restricted by, in particular, workloads and a concern for the workloads of others.

Thus, the ‘right to request’ FWA offers certain forms of limited direct voice rather than free choice. Voice is restricted to having a say in daily work organisation as long as it fits with existing organisational structures and processes. Borrowing from Hales and Klidas’ (2008) discussion of worker empowerment, if women are to experience positive outcomes relating to flexible work choices, there is a need for ‘a real transfer of power’ to workers so that they might influence issues of workload and distribution of tasks.

Workplace influence

A ‘real transfer of power’ in regard to flexible working arrangements would be one in which workers were able to influence those things that constrain their uptake. To assess the degree of workplace influence and autonomy, respondents were asked a number of questions regarding their ability to influence work processes (nature of control over the pace, methods and order of tasks); their ability to take a break when needed and their ability to influence the organisation of work itself (workload and overtime).

Most workers indicated that they had a good degree of control and influence over some aspects of their work. In particular, they indicated more autonomy over the

timing of their holidays (75.2%) and their rest times at work (71.3%). Over half of the respondents also reported having the freedom to exercise control over their immediate work process. More specifically, 69.5% reported a high degree of influence over the order in which they completed their work tasks, while 54.8% and 48.6% reported having control over the pace at which they work and the method of work employed, respectively.

Where respondents indicated the least amount of workplace influence or autonomy is in relation to their workloads and the working of additional hours. Most respondents (44.3%) reported having little influence over their workload and almost two thirds (61.9%) noted limited influence over the working of additional hours. These are the very areas in which workers would need influence and control in order to exercise true choice in regard to FWAs.

Overtime or additional hours are often used by organisations as a means of dealing with increases in workload. When asked about the prevalence of overtime working, the results indicate that over half (51.5%) of the respondents work more hours than they are contracted to work, many (84%) of which receive no financial compensation. In looking at those respondents who work additional hours and receive no financial compensation (n=3161), it was found that 44% also have no opportunity to 'bank' the additional time worked. This shows that 18% of all workers surveyed regularly work overtime, receive no financial compensation and are unable to bank their additional time worked. Thus, despite the availability of FWAs respondents report a culture of working additional hours with no ability to receive compensation or to input into decisions relating to that overtime work.

CONCLUSION

A 'right to request' framework provides a mechanism for workers to seek greater flexibility at work. However, this research demonstrates that choosing to access FWAs is far from simple (Greenberg and Landry, 2011). The survey results show that while there is formal *provision* of flexible work policies there is little *utilisation* of these by women in the public services. Most workers surveyed were unfamiliar with the Employment Relations (Flexible Working Arrangements) Amendment Act 2007 and thus were not aware of their legislative rights to request greater flexibility in order

to accommodate caring duties. Moreover, while many respondents did report the existence of informal flexible work arrangements, the respondents indicated that there were important constraints on the likelihood that they would pursue these.

The majority of respondents indicated that they worked in an environment with significant workload and time pressures. Over half of those surveyed reported working overtime for no financial compensation or time off in lieu. In these circumstances, the need for flexibility at work to accommodate other responsibilities and commitments is likely to be considerable. Yet, workloads, time pressures, fears of job security and ‘not wanting to burden their co-workers’ were key reasons why flexible working arrangements were not taken up more by women workers. In this context, the ‘right to request’ framework individualises the responsibility of managing flexible working arrangements down to the worker and shifts the responsibility away from the organisation. Yet, while workers are required to manage the process of flexible work themselves, the setting of workloads is the area in which workers have the least influence. In keeping with previous research, these findings suggest that there is a need for greater attention to the management and implementation of workplace flexibility within organisations (Croucher and Kelliher, 2005; Kelliher and Anderson, 2010; Todd and Binns, 2011).

Flexible work has arisen in New Zealand as a matter of choice, and to some extent direct voice, rather than one of rights and responsibilities. In this context, flexible work outcomes for women in the public services are dependent on the quality of voice mechanisms available to them. The results suggest that worker voice in the New Zealand Public Service is restricted to task participation – that is the ability to shape their immediate work environment, which as above, does not include the management of workloads. These results are notable given that they are gathered from a sample of relatively well-paid, well-educated and, for some, ‘privileged’ workers. If the survey was extended to workers earning lower incomes, in non-governmental jobs and/or in more precarious jobs, it is anticipated that even lower levels of voice would be reported (cf. Golden, 2008; Tomlinson, 2004).

This research highlights a need for indirect representative voice to balance the individualisation of flexibility agendas. Collective voice and the ability of workers to

influence their organisations' decision-making processes are not considered in legislative and organisational provision of the right to request flexible working arrangements. The research emphasises the role of indirect representative voice regimes in the policing and facilitation of agreements on the implementation of FWAs at workplace levels. In particular, it identifies a role for employee representation to play in ensuring organisations assume responsibility for the management, and not just the provision, of flexible work arrangements at workplaces. In focusing on women's voice and the distinction between flexible work provision and utilisation, this paper suggests future areas of analysis, particularly in the area of voice regimes.

In summary, while flexible work policies may contribute to the betterment of women's working lives, this research also reflects the limitations of such policies if based upon individualist notions of choice, direct forms of voice and a lack of clarity as to whose responsibility it is to manage the implementation and operation of FWAs. By reframing the provision of FWAs within a framework of rights and responsibilities, the onus on the organisation of careful management and implementation of flexibility would be made clear. Finally, this research highlights the role of indirect collectivist voice in the development of flexible work arrangements and the institutional responsibilities for adequately managing the provision of such arrangements.

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ⁱ Public sector organisations in New Zealand include the State sector and local government. The State sector further consists of the State services within which sits the Public Services organisations.