



**CARERS & THE 'RIGHT TO REQUEST FLEXIBLE WORKING'**  
*AN INTERNATIONAL PERSPECTIVE ON THE ORIGINS, IMPACT  
AND TRAJECTORIES OF AN EMPLOYMENT POLICY CHANGE*

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*6<sup>th</sup> International Carers Conference, Goteborg, Sweden, 3-6 September 2015*

# Overview

- **Current law on carers and the Right to Request Flexible Working**
  - **UK, Australia, New Zealand**
- **Background to these legal provisions**
  - **Evolution of provisions on eligibility, procedures, etc**
- **Work-Care Reconciliation Policy Options**
  - **The 'right to request' v. other forms of support**

# Provisions in the three countries today: UK

## UK (England, Scotland & Wales)

- **Eligibility – 26 weeks' service with the employer**
- ***All employees* have this right since June 2014**
- **Code of Practice on handling requests 'in reasonable manner' (ACAS)**
- **Requests must be made in writing**
- **Employers must respond within 3 months**
- **Employers must have a 'sound business reason' for refusing a request**

# Provisions in the three countries today: Australia (commonwealth law)

- **Eligibility – 12 months’ service AND must be:**
  - *Parents of a school age child or a disabled child <18*
  - *Carers*
  - *Disabled person*
  - *Aged 55+*
  - *Person affected by domestic violence*
- **Requests must be made in writing**
- **Employers must respond within 21 days**
- **Employers must have a ‘reasonable business ground’ for refusing a request**

# Provisions in the three countries today: New Zealand

- **Eligibility — from first day of employment**
- *All employees*
- **Must make their request(s) ‘in good faith’**
- **No annual limit to number of requests**
- **Requests can be made for any reason, applicant need not tell the employer why**
- **Employer has one month to respond**
- **Employer can refuse on business grounds (as specified in the Employment Relations Act)**

# Background to the emergence of the Right to Request Flexible Working in the UK

- Lobbying on behalf of working carers / parents began in 1970s
- Labour's 1st national strategies on childcare ('97); carers ('99)
- 2000 'Work & Parents: Competitiveness & Choice' Govt. Paper
- ***Employment Act 2002***
  - Introduced RRFW for **parents of all young children aged <6 years and of a disabled child aged <18 years**
- ***Work and Families Act 2006***
  - ***'A very British bill and a very British approach' (Minister Alan Johnson)***
  - **The 2006 Act extended the RRFW to carers of parents, spouses, relatives and people living at the same address**
- ***Children and Families Act 2014***
  - **Removed the requirement to be a carer** from the RRFW legislation

# Carers and the Right to Request Flexible Working in the UK

- ❑ Blair Govt. - early **commitment to find ways of supporting carers**
- ❑ 2000s: *'unprecedented & successful'* **cooperation between 'trade unions, pressure groups & women's organisations'** in responding to official consultation on work-family proposals (Himmelweit, 2007)
- ❑ Inclusion of parents of disabled children in 2002 law arose from **lobbying by carers' and allied organisations**
- ❑ **Caring & employment** has featured strongly in successive National Carers Strategies, **urged by Carers UK / other carers' organisations**
- ❑ **Action for Carers & Employment** (led by Carers UK) influential
- ❑ 2012-13 Coalition Government works with **Employers for Carers** to produce *'Supporting Working Carers\*'* (2013)

\*<http://www.employersforcarers.org/resources/research/item/808-supporting-working-carers-the-benefits-to-families-business-and-the-economy>

# Background to the emergence of the Right to Request Flexible Working in Australia

- **WorkChoices** introduced (by 2005 Howard Govt.)
  - ▣ ACTU campaigned strongly on flexible working arrangements
  - ▣ Support for working families was a focus in next Federal Election
- **Fair Work Act 2009** (Rudd Govt.)
  - ▣ *National Employment Standards* - RRFW for some employees
  - ▣ Bill initially covered parents of children under school age
  - ▣ Submissions extended this to disabled children <18 in the 2009 Act
- **Carer Recognition Act 2010** – defined carers in law
  - ▣ Recognition, awareness, acknowledgement of carers' contribution
- **Fair Work Amendment Act 2013**
  - ▣ RRFW extended to all carers (within the meaning of 2010 Act)



# Emergence of the Right to Request Flexible Working in New Zealand

- ***Employment Relations (Flexible Working Arrangements) Amendment Act 2007*** (implemented 2008)
  - RtoR made available to **employees with responsibility for care of any person**, one request per year, **6<sup>th</sup> months' service**
  - Covered work hours, work schedules, place of work
- ***Employment Relations Amendment Act 2014*** Implemented March 2015
  - *Extended the 2007 right from caregivers to all employees*
  - *Introduced the right to request **from 1<sup>st</sup> day of employment***
  - *Reduced employer response time from 3 months to 1 month*

# Pros and cons of the RRFW (for all / for carers)

- Accepted by most employers, managers and employees
- Simple to implement
- No need for carers to self-identify
- Limits carers' perceived 'lack of commitment' to work
- Users of FW 'pay the price' of any flexibility which reduces pay
- Risk of entrenching gender inequality
- Viewed as divisive by some
- Implementation challenges

# Other supports for work-care reconciliation – *..... better? ... different? ... complementary?*

- **Carers' Leave rights**
  - ▣ Japan, some EU states, Canadian provinces, etc.
- **Employment of carers in their caring role**
  - ▣ First introduced in Sweden 1960s
- **Promotion/institutionalisation of short(er) work hours**
  - ▣ Netherlands, France (?)
- **Allowances for carers in social security systems**
  - ▣ UK from 1976 (and some other countries)
- **Anti-discrimination legislation**
  - ▣ NSW, Australia 2000 - amended Anti-Discrimination Act 1977, defining carers as a protected class. Employers must make "reasonable accommodations" (similar law later adopted in Victoria, Australia.)

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***From 1<sup>st</sup> October 2015***

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**Content from our research on carers, care and caring at the University of Leeds between 2006 and 2015 will be made available on our new website at the University of Sheffield**