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Bringing the “right to request” flexible working arrangements to life: from policies to practices

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Abstract

Purpose – The purpose of this paper is to understand how the “right to request” flexible working arrangements (FWAs), located in national policy and in organisational policy contexts, are brought to life in the workplace by employees and their managers. The authors seek to understand the nature and content of requests, the process followed in attending to requests, the scope of the arrangements which resulted and the implications for the work of both employees and managers.

Design/methodology/approach – The authors employ a case study method, investigating how formal “right to request” FWAs policies translate to practice within two large companies in Australia. The primary data focuses on 66 in-depth interviews with line managers, employees and key organisational informants. These interviews are triangulated with legislative, company and union policy documents.

Findings – Most requests were made by mothers returning from maternity leave. Typically their requests involved an attempt to move from full-time to part-time hours. The authors found a considerable knowledge deficit among the employees making requests and a high level of informality in the processing of requests. As a result, managers played a critical role in structuring both the procedure and the substantive outcomes of FWAs requests. Managers’ personal experience and levels of commitment to FWAs were critical in the process, but their response was constrained by, among other things, conflicting organisational policies.

Research limitations/implications – The scale of the empirical research is possibly limited by a focus on large companies in the private sector.

Practical implications – The authors provide insight into the implementation gap between FWA policy and practice. The authors make suggestions as to how to make “right to request” policies more accessible and effective.

Social implications – The “right to request” flexible working is an issue of critical importance to families, employees, managers, organisations and economies.

Originality/value – “Right to request” FWAs are relatively new in legislation and policy and thus the authors have an incomplete understanding of how they operate and come to life at the workplace level. The authors show a significant implementation gap between policy and practice and point to some of the critical influences on this. Among other things, the authors build new insight in relation to the interaction of formal and informal and the role and place of the direct manager in the process of operationalising the “right to request”.

Keywords Government policy, Industrial relations, Line managers, Flexible labour, Family roles

Paper type Research paper

Introduction

Policies enabling the introduction of flexible working arrangements (commonly referred to as FWAs) spring primarily from the need for employees to engage both in paid employment and to undertake family roles. Recognising the political potency of the work and family clash, governments, including in Australia in 2010 and earlier in



the UK, Germany, the Netherlands and New Zealand, have legislated “right to request” policies. In some cases, employing organisations have also introduced their own versions of such policies.

Given that such policies are now more widespread, in this paper we ask: how are right to request flexible work arrangements policies implemented in the workplace? That is, how do they “come to life” and how are they translated from policy to practice? This is of both conceptual and practical importance. We answer this question through case study and interview analysis of the ways in which such policies were interpreted and implemented by employees and managers in two Australian companies.

The paper is structured in the following way. We first review the literature on right to request policies and FWAs. We apply Kelly and Kalev’s (2006) argument that the limited take up of FWAs is built into the policy design and we highlight the ways in which multiple policy layers may further limit knowledge of and access to FWAs for employees. Following the work of other scholars, we also examine the role of line managers in framing policies and translating them to workplace practices. The literature review is followed by an outline of the methodology employed and an overview of the characteristics and policies of the two case study organisations. The results of the study are then presented and following this we discuss the implications of the research.

Literature review: line managers and FWAs

The development and application of flexible work policies and practices for working parents has been an area of rapidly growing, multi-disciplinary, scholarly interest in recent years, in part because employee needs to reconcile work and care responsibilities have put pressure on the “ideal worker” model (Acker, 2006) and the policy framework in which it is embedded. In this context, studies of the design and operation of “right to request” flexible working policies have been a key concern. “Right to request” flexible work arrangements refers to policies which grant employees procedural rights to ask for consideration of applications for flexible schedules, working hours or place of work to accommodate care arrangements. Depending on the context, the flexibility requested might include shorter working hours, compressed schedules and remote working. There is a building scholarship in relation to right to request legislation and policy in various contexts and which points to the history of national systems (Charlesworth and Campbell, 2008; Hegewisch, 2009; Himmelweit, 2007). A key theme has been an analysis of the design flaws of these policies in different national settings, centring on the three issues of the exclusion of some employees, the limitations springing from their procedural (rather than substantive) nature and, thus, the limited enforceability of the “right” (Charlesworth and Campbell, 2008; Croucher and Kelliher, 2005; Aybars, 2007).

The right to request, thus, has been said in practice to be more of a “right to ask” than an entitlement or guarantee of outcomes (Kelly and Kalev, 2006). The flipside of this in the design of policy is that the “right to reject” usually lies with the employee’s direct manager. Kelly and Kalev (2006, p. 407) argue that in the US context, management of the employment relationship is either seen as having become more deregulated (which they refer to as “restructured”), which expands the line management function and also the potential for informality; while the counter argument is that the employment relationship has become more regulated, (which they refer to as “legalized”) thus increasing the degree of formalisation at the frontier between the line manager and the employee. They conclude in their study of US workplace practices, that “the limited utilisation of FWA is built into the company policy itself. This finding suggests a need for new theoretical concepts that go beyond a

dichotomy of formal policies and informal practices". We explore this dichotomy in this paper but also note that in Australia (as we explain below) there is legislated national-level policy which may co-exist with company-level policies. This situation, of dual layers of formal policy, suggests that the interplay of formal policy with more informal practice may be more complex than simply understanding policy which operates only at the organisational level.

Kelly and Kalev (2006) make an attempt to draw together work on organisational policy frameworks and the implementation of practices in US workplaces. Their model is relevant for our purposes, because it considers the interaction of managerial discretion with a policy framework. They argue that rather than the "decoupling" of policy and practice that is often assumed to happen within organisations, resulting in lower usage of FWAs than might be signified by the existence of a policy, it is in fact the policy design itself which is the key determinant of outcomes. Their analysis shows that policy systems with "managerial discretion" rather than "employee rights" at their heart creates constraints and tensions which limit employee access and capacity to utilise flexible working. They call for a more sophisticated way of analysing the interaction between the "formal" and the "informal" in relation to policy and regulation (p. 407).

It is clear from research on the application of work and family policies, beyond and including "right to request" policies, that line managers can be a vital organisational lubricant allowing employees to translate policy into practice (Budd and Mumford, 2006; Dick and Hyde, 2006). For example, line managers, often make the decisions as to which classes of workers can, and cannot, have access to non-standard arrangements, and, importantly, the types of flexibility, that is accessible for different employees and on what basis (Schofield and Peel, 2009; Parris *et al.*, 2008). The process also seems to work in reverse, as the agency of managers is seen as a critical explanatory factor for employee inability to access FWAs (Lewis, 1997; Kirby and Crone, 2002).

For our purposes, it is worth noting that the literature suggests that managerial decision making and levels of support for flexible working appear to be a significant influence over flexible working outcomes, including when formal policies exist to support access to flexible work. This can lead to a disjuncture between organisational policy and organisational practice (Wise and Bond, 2003). In a study of four organisations in the UK, Yeandle *et al.* (2003, p. 11) drew "attention to the central role of line managers in implementing and interpreting policy" relating to flexible work for workers with elder care responsibilities. Yeandle *et al.*'s (2002) earlier work demonstrated that although most managers were sympathetic to the caring needs of their employees, they had a varied understanding of related policies and "[a]s a result, policy implementation often occurred on an informal, flexible basis, reflecting reciprocity between managers and employees" (Yeandle *et al.*, 2003, p. 12). US research on managing employees with elder care responsibilities, also suggests that American line managers play a significant role in influencing an employee's ability to access FWAs set out in policy (Aumann *et al.*, 2010). We see similar processes at work in Australia in relation to mature-age workers and access to leave or flexible work for elder care purposes. For example, Baird and Heron (2013, p. 252) found in relation to the application of organisational policy that "line managers could both facilitate and frustrate employee access to flexible work accommodations (with resulting inconsistency of access)".

In this paper, we examine how, and the degree to which, formal policies (federal legislation and company policy) become operationalised. Our analysis of the actions that managers and employees take in making and processing requests for flexibility at

work was undertaken at an historically significant time, where relatively recent changes in national employment law had established a both a new right and new process to facilitate employee access to FWAs for parents.

Methodology and cases

The research presented in this paper draws upon case studies conducted within two large, multi-divisional, private sector organisations, TeliCo (a large telecommunications organisation) and BankCo (a large financial services organisation). The research was undertaken between November 2012 and June 2014. During this time, semi-structured interviews were undertaken with line managers and employees who self-selected in response to a call for research participants sent out via e-mail through internal networks within the organisations. Each of the line managers and employees we interviewed were screened to ensure they had been involved in either requesting or approving FWAs in the period from 2010 to mid-2014. The interview protocol covered the precise mechanisms used to establish flexible working; what, if any, advice employees took when preparing to request FWAs and the form this took; the role that managers (line, HR, more senior managers, specialist managers) played in the establishment of FWAs; the role of the line manager (or immediate supervisor) in implementing the flexible work arrangement, the outcomes of the request and the terms established by it, as well as reflections on the process. In keeping with ethics requirements, all interviewees were assigned a pseudonym. While we could not pair line managers with employees who had requested flexible work, it is important to note that we collected data about the role of managers in both companies from both the perspective of line managers themselves and from employees who had requested FWAs.

In total, 66 interviews were conducted (see Table I). Of that, 50 interviews were conducted with line managers and employees in these case study organisations (30 BankCo; 20 TeliCo). Of those interviewed, 33 were employees who had negotiated flexible working (22 at BankCo and 11 at TeliCo) and 17 were line managers (eight BankCo, nine TeliCo). While they were a self-selected group, this was necessary to target the particular question we are asking, that is, how employees and line managers bring the right to request flexible work arrangement policies to life.

In order to establish a comprehensive understanding of the policy context relating to flexible work, further, interviews were also undertaken with key informants. Within the case study organisations we interviewed five key informant senior managers, who had responsibility for specialist functional areas with close knowledge of right to request policies, such as in HR, ER and diversity departments (two in TeliCo and three at

Employees <i>N</i> = 33	BankCo, <i>n</i> = 21 TeliCo, <i>n</i> = 11
Line managers <i>N</i> = 17	BankCo, <i>n</i> = 8 TeliCo, <i>n</i> = 9
Senior managers <i>N</i> = 5	BankCo, <i>n</i> = 3 TeliCo, <i>n</i> = 2
Industry key informants <i>N</i> = 11	Trade union officials, <i>n</i> = 8 Diversity managers, <i>n</i> = 3
Total interviewees <i>N</i> = 66	

Table I.
Interviewees

BankCo). Some of these interviewees (one in TeliCo, one in BankCo) were interviewed multiple times as the research team sought to undertake fact checks on issues such as policy application. In addition, we undertook 11 external industry key informant interviews. Eight interviews were undertaken with trade union officials who were familiar with and who had members in the case organisations. Three interviews were undertaken with specialist diversity managers in the relevant industry sector, but outside of case organisations.

In addition to these interviews, the policy documents of both companies were examined, as were the enterprise agreements (EAs) and the relevant National Employment Standards (NES). The methodological strategy of triangulating key informant interviews with those conducted with employees and managers, and the detailed examination of how “policy” is defined in the legislation, in EAs and in organisational policies is both useful and novel in understanding the interaction of these three policy domains, and in contributing to the broader field of work and organisational studies.

The semi-structured in-depth interviews ranged from 40 minutes to an hour and a half. All interviews were taped and fully transcribed. The research team read each of the transcripts and developed a preliminary coding framework, based on emergent themes from interviews. A coding system was developed in NVIVO9 and agreed by the research team. Each interview was extensively coded to capture key themes and relationships between them.

Right to request policies

The national policy

A formal, nationally legislated right to request was first introduced in Australian legislation in 2010, as one of the ten NES in the Fair Work Act, 2009. The NES provides the opportunity for employees to make formal requests for flexible working if they are the parent of a pre-school aged child or a parent of a child with a disability under the age of 18[1]. At the time of the research, employees with 12 months of continuous service were eligible to apply for FWAs, including a request to change hours of work, rosters and place of work. The required procedure is set as follows: the request is to be made in writing, noting the precise details of the changes in the working arrangements sought. Employers are required to respond in writing within 21 days and can refuse the request on “reasonable business grounds”.

Policies in the case study organisations: BankCo and TeliCo

Our case study organisations are both large bureaucratic organisations, known from the literature (Chartered Institute of Personnel Development, 2012; Dex and Smith, 2002) to be more likely to have formalised policies relating to flexible work. At the time we undertook the case studies, TeliCo had close to 40,000 full-time equivalent employees with 31 per cent being women. The great majority, 92.9 per cent, of employees were employed on a permanent basis, with 5.9 per cent employed on permanent part-time basis. TeliCo operations were located primarily within Australia, with smaller operations and employment in New Zealand and Asia. TeliCo has a unionised workforce and at the time we conducted the case study, had an operational (Fair Work Act) collective EA which covered just over half of their employees (51 per cent). The remainder of Telico’s workforce had their terms and conditions determined by individual agreements, primarily in the form of common law contracts. The TeliCo EA provided for unpaid parental leave of up to 12 months

with the right to request a further 12 months (replicating the NES), as well as a right to request flexible work for parents of pre-school age children or for children aged under 18 with a disability. Both the unpaid parental leave and the right to request parallel two of the NES introduced under the FWA, 2009. All other aspects of work and family policy were set out in organisational policies, that is, without union involvement or negotiation. In relation to the “right to request” FWAs, while the NES applied, TeliCo policy stipulated that the employee approach their line manager verbally or in writing to indicate their intention to work flexibly, and how this might be managed in their role. The policy established that this should be formalised by the employee filling in an e-form recording their request noting, for example, which days they might work from home, the reasons they sought to do so, the ways in which it would benefit the employee and how their job might suit this flexibility. The manager considers the request and determines if it is possible to implement. Unlike the NES, there is an appeal mechanism, albeit relatively unsophisticated: the process to appeal a decision is for the employee to have a discussion with their manager to try work out another arrangement.

BankCo had 42,000 employees, 57 per cent of whom were women. Of these employees, 65 per cent were employed full-time, 15 per cent were employed in permanent part-time positions and 19 per cent were casual or temporary employees or contractors. BankCo had operations in Asia and New Zealand, the USA and Europe, but two-thirds of employees was based in Australia. BankCo had a unionised workforce and an EA covering 100 per cent of the organisation’s employees. BankCo’s 2011 EA, negotiated with the relevant sectoral union, contained a “right to request” policy which essentially mirrored the statutory rights of employees in the NES in relation to both the circumstances in which requests could be submitted and in terms of eligibility. This policy was nested in the EA clause addressing parental leave and was thus explicitly established in relation to facilitating access to FWAs for new parents. The negotiation of such matters is set out to be between the line manager and the concerned employee. The line manager is to consider the “employees circumstances” and “business grounds” for the request. Union representatives involved in the negotiation of the EA argued that they had sought to have the National Standard included in the EA because of the “poverty of the NES standard in terms of enforceability” (George, Union official, interview). Thus, inclusion of the “right to request” policy in the EA is significant as it allows employees who might be in dispute about the outcomes of the request, access to the dispute settlement procedures contained in the broader EA, potentially strengthening the employee’s ability to challenge the line manager’s decision. The procedure for this “right to request”, as set out in the EA, involves employees filling in an e-form, submitting it for approval to the line manager, discussing the requirements with the line manager and the line manager responding in writing within 21 days. Although no specific appeal process for refused flexibility requests is set out in the EA, the appeal process defaults to the formal dispute resolution procedure contained in the EA.

In summary, for TeliCo, the right to request flexible work arrangements policy incorporated legislated, union negotiated and company determined “right to request” policies; for BankCo, the right to request flexible work arrangements policy involved the legislated and union negotiated policies. In both cases, there was also an interaction between two or three levels of policy. As noted above, our interest is in how these policies came to life.

Results: knowledge, formality, outcome and impact of FWAs

This section of the paper details our findings in relation to how the right to request a flexible work arrangement is translated from policy to practice. In order to do this, we address three critical aspects of the right to request process: first, employee and line manager awareness and knowledge of policies; second, the request process and the level of formality and informality; and third, the outcome of the attempt to establish FWAs.

Before discussing the findings in detail we note some important characteristics of the interviewees. Of the 33 employees interviewed, the great majority, 31 or 94 per cent, (95 per cent at BankCo/91 per cent in TeliCo) were women (ten in TeliCo and 21 in BankCo) and all were working flexibly at the time of the interview. The majority (22 in total, 16 at BankCo and six at TeliCo) were in reduced hours permanent roles and each of these interviewees were mothers returning from a period of maternity leave, having previously worked in standard full-time role. The great majority of the employee sample (28 of 33) also had additional flexible working conditions, most commonly, flexible start and finish times (14 at BankCo and one at TeliCo) and work from home provisions (seven at BankCo and six at TeliCo). Of the 17 line manager interviewees, 15 or 88 per cent were women (eight at BankCo and seven at TeliCo) and 13 worked flexibly (six at BankCo and seven at TeliCo). Each of the interviewed line managers had directly negotiated flexible working with members of their staff during the relevant period.

Awareness and knowledge

Despite the existence of detailed policies and procedures for accessing FWAs within both case study organisations and at the national policy level, the vast majority of interviewees, line managers and employees, in both case study organisations lacked a clear understanding of organisational policies, EA provisions, where relevant, or broader legal rights in relation to accessing flexible work. Just 13 of the 33 employees interviewed had “heard of” the right to request FWAs provided in the legislation, the EA which governed their employment or set out in organisational policy. Furthermore, the overwhelming majority of these had a poorly developed understanding of both the substance of the policies and the procedures associated with their application. When asked to describe the preparation they undertook for discussions requesting flexible working, very few employees undertook any research or took any advice on FWAs. Two employees noted that they had “read up on” the policies of their organisation prior to initiating a conversation with their manager, and two others noted that they had undertaken internet searches to find information (e.g. Pauline, employee, BankCo, interview; Josie, employee, TeliCo, interview). We found no examples at all, despite the relatively strong presence of unions in both organisations, where employees consulted with union representatives either in the workplace or beyond it. With the exception of two employees who consulted with their organisations’ HR managers before approaching a request for flexibility (Eliza, employee, BankCo, interview; Sam, employee, TeliCo, interview), our interviewees relied upon friends and family for advice. Maggie’s and Kendall’s experiences were typical:

It was probably more the mother’s group, and probably my husband, were the two sources, I suppose – and other girlfriends, predominantly, in and outside of my mother’s group, just sourcing their advice (Maggie, employee, TeliCo, interview).

I spoke to a few friends – a few people I worked with as well who I see outside of work (Kendall, employee, TeliCo, interview).

Perhaps of more concern, managerial knowledge was also very low. Around half (seven), of the line managers we interviewed were either unaware of the policy of their organisation or felt challenged by limited understanding of the grounds on which they could grant or refuse permission for employee proposals for FWAs. For example, despite the existence of quite detailed organisational policies, Lisa, a line manager at BankCo, was unaware of the existence of such a policy framework:

There's no written policy or anything as to how to approach it. You know, it's basically up to the people leader and the individual to negotiate that (Lisa, Line Manager, BankCo, interview).

Most line managers had not been formally trained in relation to the “right to request” policy (e.g. Melanie, Line Manager, BankCo, interview). Those line managers who reported a strong working knowledge of the “right to request” policies of their organisation were managers, like Jenny, who self-identified as “flexibility advocates”. Jenny told us that there were observable equality and business benefits from enacting FWAs:

I'm a big supporter of flexible work environments. In part, as a proud feminist, I think it's absolutely critical for families that we have flexible work environments, but also I just think you get better engaged employees, which is a better business outcome (Jenny, Line Manager, TeliCo, interview).

These “advocate” line managers reported that they had made it a priority, outside of the boundaries of their jobs, to seek out information about entitlements in relation to flexibility and best practice approaches for managing flexible teams.

Because line managers and employees lacked detailed knowledge of the existence, content and application of the policies, it was not surprising that the agency and opinions of line managers was seen as the key factor in determining the outcomes of requests for flexible working. It explains why so many employees across both BankCo and TeliCo, who had been satisfied with the result of their request for flexibility, saw the outcome as being dependent on the attitudes of their direct manager and the quality of the relationship between them. Many employees spoke of being “grateful” and “lucky” (Ada, employee, BankCo, interview; Leonie, employee, TeliCo, interview) or referred to having “won the lottery” (Tonia, employee, TeliCo, interview) by being in a team with a line manager who “got it” (Glenda, employee, BankCo, interview; Judy, employee, TeliCo, interview).

Not all employees, however, had the experience of “an amazingly supportive manager” (Rochelle, Line Manager, TeliCo, interview). A significant group of employees explained their experience of working with line managers who had made it clear that they did not support, and were unwilling to facilitate FWAs for their team members, despite the existence of formal policies. A number of manager interviewees themselves recounted observing peers with anachronistic approaches to women's careers: “the sort who thinks you should be home in the kitchen, anyway, rather than be at work” (Kate, Line Manager, BankCo, interview), and to managers who preferred to manage teams who were office-based and full-time at work: “bums-on-seats-type managers” (Kendall, Line Manager, TeliCo). The actions of “old school” managers (e.g. Pauline, employee, BankCo, interview) could have a critical impact on access to flexibility for working parents and could make the operation of formal policies supporting FWAs all but hypothetical for employees.

The lack of knowledge about right to request policies displayed by both employees and line managers was readily apparent in both TeliCo and BankCo. It did not appear to make a difference whether the policy was a national standard, embedded in the EA or a part of

company policy, employees and line managers rarely distinguished between them. This lack of awareness about the policy detail, and with no questioning from unions, potentially opened a space for line managers to exert more influence, both formally and informally, over employee access to FWAs. As Kelly and Kalev argue, it is not the decoupling of policy from practice that is relevant, as much as the discretion resting with the manager that determines access or not for employees. For instance, those line managers who were more open to flexibility for personal reasons, rather than company policy, seemed to be most open to negotiating and allowing FWAs with their employees.

Formality and informality in applying policies

Informality ruled in the request and response process in both organisations. Both case organisations had detailed policies about the types of information that needed to be sought and exchanged, the factors that would be considered as relevant to a request for FWAs, and the precise ways in which an agreement about FWAs would be applied, yet it was very rare for this formal process to be followed. Employees were quite vague about what process had been followed, and whether, and in what form, their access to new FWAs had been gained. Wendy (BankCo) and Leonie (TeliCo) were typical in their recollection of the processes. They understood that an agreement had been reached as to the hours they were to work, but they were less clear as to how exactly this had transpired:

I don't think I signed – maybe I did sign something – I can't even remember. I got some sort of notification to say that my hours had changed. I don't know that I signed anything (Wendy, employee, BankCo, interview).

I know that they've entered something in the system, but I don't know what it is (Leonie, employee, TeliCo, interview).

Other interviewees suggested that the outcomes of their requests for FWAs were not formally recorded within organisational systems. This was the experience recounted by Sonja and Aaron, both TeliCo employees:

So you'll find most people you talk to [here], their flexible work arrangements aren't a permanent formal arrangement. It's just a verbal agreement between you and your line manager (Sonja, employee, TeliCo, interview).

I guess we could formalise it but we haven't at this stage (Aaron, employee, TeliCo, interview).

This was not purely the case of employees not understanding the processes, but it also occurred when employees and their line managers were aware of these requirements and chose to “work around” or ignore them. Lise, a line manager in BankCo, reflects upon this:

There is a working from home form that's supposed to be filled, but to be honest I haven't filled it in (Lise, Line Manager, BankCo, interview).

High levels of informality were more apparent where employees had a level of continuity in their work. For example, employees who returned from maternity leave, and were located in the same team, being managed by the same manager, appeared to have more positive FWA experiences than if there were substantial changes in the work context and role.

A significant group of employees reported major changes in their work due to organisational restructuring and movement within leadership and teams between their

request for FWAs, (e.g. prior to going on maternity leave), and their return to work. Tess explained:

Pretty much the whole area was restructured. So teams were merged or people from other areas came in so our team became much larger (Tess, employee, BankCo interview).

As a result, many found a rather different situation to that which they thought had been established in their negotiation of FWAs. Some employees found that their job no longer existed or that, despite a request and agreement to establish part-time hours, this was now impossible:

Basically, when I came back I actually had to find a job. It put a different pressure on you (Bronte, employee, BankCo, interview).

The instance quoted above, not only reflects a lack of formality in the process but also possible infringements of the law regarding job guarantee and returning to work after maternity leave. Interestingly in none of these cases, did the employees discuss with us any formal action they took to seek redress or compensation.

In all, the lack of formality in the process and implementation of FWAs exposed employees to possible negative repercussions on return to work and lack of guarantees about job status and security. While the authority to grant, or to refuse, FWAs ultimately rested with line managers (and not employees) in both organisations, line managers did not always adopt a formal process.

Outcomes and impact on employees and line managers

In our interviews we sought to understand how formal and broad-ranging the content of the negotiation to establish flexible working was. However, it was clear from the interviews that very little detail was discussed between line managers and employees in attempting to establish FWAs, beyond the specific nature of the change requested, for example reduced hours, and the start date of these arrangements. For example, most employees noted that they had not discussed, understood or reached an agreement in relation to important processes such as expectations in relation to performance, the timing of performance reviews, or the nature of targets for end of year bonuses. Very few interviewees, either line managers or employees, broached issues such as capacity for career development, training or promotion when requesting a reduction in hours worked in their job. Significantly, it was rare for an agreement to reduce working hours to include mechanisms for redistributing workload that would be “left over” from a previously longer hours job.

This could mean that employees were placed in a situation of unrealistic workloads and overly ambitious expectations from line managers and co-workers. Many employees felt under-resourced in their roles and compelled to undertake a similar volume of work, regardless of undertaking less paid hours. Juliette felt unable to keep up with expectations because her reduced hours were not accounted for in workload expectations:

I'm having to, like I said, constantly justify. And constantly reiterate that as point seven FTE I can't do this without assistance (Juliette, BankCo, interview).

Kath, a line manager herself, was in a similar situation of undertaking the same workload with a reduced workweek:

But my boss is not giving me less work because he knows I do flexible hours [...]. I just do it in different times (Kath, Line Manager, TeliCo, interview).

Without adequate support to “fill the gaps” in workload because of reduced hours, many employees reported that they were time pressured to achieve what was expected of them. Some interviewees reported that, because they lacked recognition in their workload of a reduced hours load, that they had been judged to have reduced performance and productivity. For example, Ada returned to work part-time after maternity leave and when her subsequent annual review was undertaken, she received a “much worse, awful” ranking in her annual performance review than had been her experience in the full-time role. She suggested that “working without adequate support part time” (Ada, Employee, BankCo, interview) in a role that had previously been full-time was the key reason for this downgrade in her performance rating.

Lack of resources to “backfill” a workload lead to the great majority of employees working (unpaid) in the evenings or on days off to complete tasks they were unable to do during their paid working days. Interestingly, many employees and the majority of managers did not see this unpaid work as an entirely negative thing. As noted earlier, in references to employee “luck” and “gratitude” for being able to work on a flexible basis, it seemed that working extra unpaid hours was framed as a trade-off for access to enjoyable work which could be balanced with family roles. Employees were able to access “precious time” with their young children, but managers and the organisation were in a position to reap some advantages, including retention of critical staff and high levels of productivity. Kate’s response was typical of the approach of many line managers towards flexible employment:

Look, the business has won in the flexibility side. However, I feel like it’s a win/win (Kate, Line Manager, BankCo, interview).

In both BankCo and TeliCo, the vital importance of managers to the negotiation, establishment and practice of FWAs was observed. The design of the policies of both organisations placed considerable emphasis on an employee reaching an agreement with a line manager, who would ultimately have the discretion as to the exact nature of flexibility. Very many of the employees we interviewed suggested that they had had a mutually beneficial outcome as a result of their negotiation. For these employees, the key factor to explain the experience was the approach of their manager. Kate and Bianca, respectively a line manager in BankCo and an employee at TeliCo, made typical comments:

No, look, like I said, I’m a lucky one. It works for me, it works for my boss [...]. So I guess it comes down to the people leader because they sort of - yeah, they’re the ones that support it or not (Kate, Line Manager, BankCo, interview).

Having a manager that supports that and understands, it sets the scene for everything else [...]. So I have been very lucky landing under the right manager at the right time (Bianca, employee, TeliCo, interview).

However, many managers, especially in TeliCo, highlighted that policies separate to the flexible working policy were at times in direct conflict with the intention of flexibility policies. This lack of integration between company policies undermined the capacity of line managers to effectively lead flexible teams. “Headcount” policy is a particularly noticeable obstacle in both organisations to integrating flexibility into daily operations, as these managers note:

You cannot go over your headcount. It’s all about budget (Georgie, Line Manager, TeliCo, interview).

You can go down, but you can never go up. Once you’ve gone down, you can’t bank the FTE[2] (Jenny, Line Manager, TeliCo, interview).

Thus, while managers may be predisposed to the concept of flexibility, for example part-time and job share arrangements, for their team members, they were constrained by other company policies in their ability to provide the flexibility.

Implications

We undertook our case studies at a time when national legislation in Australia, establishing a formal “right to request” flexible working for parents had been recently enacted. Furthermore, in both case study organisations, a mix of bargained and organisational policies establishing workplace flexibility for parents co-existed with these national-level policies, creating a multi-layered policy environment. Three things were clear from our interviews.

First, employees and supervisors had unexpectedly low-levels of knowledge about the policies and did not understand the interaction of the various levels of policies, often conflating the legislated policy with company policies. These knowledge deficits have the potential to reduce employee capacity to negotiate flexible work arrangements and to increase managerial authority to deliver flexibility according to their own understanding and organisational position.

Second, although formal policies and processes existed for requesting flexible work for parents, the more common pattern was for employees and managers to approach the meeting and discussion in a very informal fashion. We find that the design of organisational policies themselves as well as the practices, structures and cultures in which they are embedded, influence the ways in which FWAs can come to life. In both organisations, TeliCo and BankCo, the right to request policy emphasised agreement being reached between a supervisor and an employee. Sometimes things did indeed work to the mutual benefit of the employee and the supervisor and in these cases, employees reported feeling “grateful” to their supervisor and the organisation for allowing access to flexible working, suggesting as Kelly and Kaley do, that employees do not see this as a right so much as a privilege to which they are lucky to have access. However, we also find that managers can unduly, and in the view of many employees, irrationally influence outcomes for employees in need of flexibility because of their personal approach and views. This situation arguably undermines the intention of the policy and any notion that there has been a construction of a “right”.

Third, there was a lack of synergy between right to request (and grant) flexible work arrangements with other policies around workload and job design. In neither BankCo nor TeliCo, did the right to request FWAs policies incorporate mechanisms for the redesign of work or an explicit need for supervisors to reconsider workloads. Because such a substantial group of employees making “requests” were mothers moving from full-time to reduced hours work after the birth of child, this created significant workload gaps. This meant that some employees, typically women, were left shouldering unrealistic workloads and that they were under-resourced on their return to work. Such an unsustainable arrangement resulted in increasing tensions and potential to be reprimanded for not performing adequately. We also noted that the “right to request” is not implemented in a policy vacuum, indeed other policies can directly frustrate the application of requests for flexible working and managers ability to grant such requests. One example we found of this was “headcount” policy at TeliCo which compromised line managers’ capacity to implement flexible working, regardless of their support, or otherwise, of employee requests.

Conclusion

Understanding the content of “right to request” flexible working policies, established through national legislation, enterprise bargaining and organisational policy, is an important end in itself, given the significant innovation in this space in the past five years in Australia and internationally. In this paper, however, we have attempted to go one step further, to investigate how such policies are brought to life by those arguably most affected by their application; employees and their supervisors.

Kelly and Kalev (2006, p. 407) call for a more sophisticated way of analysing the interaction between the “formal” and the “informal” in relation to company policy and regulation. In our study, we have focused on the interaction of formal policies and the practices which seek to implement these policies. We have highlighted that while the formal policy context is important to at least establishing a floor of employee rights, that this does not in itself determine the ways in which requests for flexible working are dealt with in practice. The lack of clarity about the levels of policy and their intent, the informality in the way requests for flexible work are approached, and the flaws in workload allocation after requests have been granted, all suggest that managerial discretion, which is at the heart of right to request policies, becomes amplified as the right to request is translated from policy to practice.

Notes

1. Subsequent to the fieldwork for this study, in July 2013, amendments to the act significantly expanded the reasons for which employees might request flexible working, to include care for school-aged children, broader care responsibilities, being aged 55 or older, being a victim of or a family member of a victim of domestic violence. Our focus is on the period prior to these amendments.
2. FTE: full-time equivalent.

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