

IN THE FAIR WORK COMMISSION

Matter Number: AM2015/2 - Four Yearly Review of Modern Awards

ACTU Application for 'Family Friendly Working Hours Clause'

STATEMENT OF MARK RIZZARDO

I, Mark Rizzardo of [REDACTED] in the State of [REDACTED] say as follows:

INTRODUCTION

1. I have been employed with Busways Group Pty Ltd (**Busways Group**) for approximately 11 years.
2. I am currently employed as Group Operations Manager, based at Busways' Head Office at Pymble. I commenced in this role in 2012 and report directly to David Collins, Head of Operations.
3. Prior to taking up my current role, I was employed in the role of Depot Operations Manager.
4. As Group Operations Manager, my role involves providing operational support to the 16 depots across NSW by liaising with each Regional Manager and providing support on operational matters.

BUSWAYS

5. The Busways Group operates route and school bus services for Transport for New South Wales (**TfNSW**) across a number of regions in NSW. The Busways Group commenced operations in 1942 and now employs over 1400 people, with a fleet of over 800 buses. The average age of a Busways employee is 50 years old and the organisation is 85% male.
6. Busways engages its workforce under the *Busways Group and Transport Workers Union of Australia Fair Work Agreement 2015*.
7. The Busways Group operates services across a number of regions within NSW, including:
 - (a) Western Sydney (Contract 1 of the Sydney Metropolitan area);
 - (b) the Central Coast (Region 6 of the Outer Sydney Metropolitan area);
 - (c) the Great Lakes region;
 - (d) the Coffs Harbour region; and
 - (e) the Grafton region.
8. The Busways Group operates out of local bus depots situated within each service region as well as from a centralised Head Office at Pymble, NSW. Within the Head Office, there are a number of specialised departments including the Operations Control Centre (**OCC**) and the Scheduling Department.

9. The OCC uses sophisticated computer-based systems to constantly track and monitor the Busways Group's fleet of buses. The OCC is constantly manned by a team of controllers.
10. Busways has a Scheduling Department which is based at its Head Office in Pymble. The Scheduling Department is made up of approximately 35 employees and is responsible for preparing new timetables, shifts and rosters for the Busways Group's services across NSW.

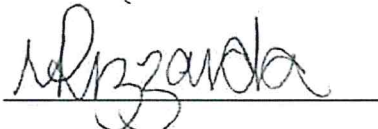
The Bus Industry and Flexibility

11. Like any employer in the bus industry, Busways is subject to particular conditions when rostering staff.
12. For obvious reasons, buses are scheduled at a specific time to meet a specific need. In Busways' case, this is tied to the provision of school bus services and to facilitate commuter needs.
13. These service requirements mean that Busways is required to deploy its staff at particular times which are not flexible in respect of employee preference and availability.
14. As a general proposition, Busways can only provide work to employees when buses are required to run, and cannot provide work to employees during periods when buses do not run.
15. Importantly, where school bus services are run, these services run during school 'pick-up' and 'drop-off' times. These services operate on a time specific schedule as set out by schools and the department of education in accordance with contractual requirements determined by the regulator (TfNSW). For obvious reasons, these services cannot be rescheduled to other times during the day.
16. Such times are also commonly the subject of employee flexibility requests so as to allow employees to attend to their personal responsibilities in picking up or dropping off their own children.
17. This leads to a direct conflict in staffing requirements and employee preference/availability.
18. This conflict commonly results in an industry practice whereby split shifts are utilised to make up the daily duties of a large portion of the workforce (a 1-4 hour shift in the AM and PM commuter peaks). This method is used by Busways for 60% of employees.
19. These arrangements are possible under the terms of the current legislation which allows flexibility requests to be genuinely considered and assessed against business need. In Busways' case, this has resulted in a controlled/limited number of employees being accommodated. If all employees with parenting or caring responsibilities could unilaterally elect to not to work these hours, without regard to business needs, it would severely curtail the ability of Busways to offer these school services.
20. Similarly, there are some routes (usually those run in the middle of the day, in the middle of the week) which most, if not all, employees are available for. If all employees were entitled to elect to work at these times, Busways would not have enough routes to accommodate that availability.

Busways' Experience with Workplace Flexibility

21. Busways occasionally receives requests for flexible working arrangements from employees with parenting and caring responsibilities.

22. Annexed hereto and marked 'A' is Busways' Request for Flexible Work Arrangements Form.
23. Annexed hereto and marked 'B' is Busways Flexible Working Arrangements Procedure.
24. Busways' ability to accommodate flexibility requests depends on the role of the employee.
25. Requests by administration staff are generally able to be accommodated.
26. For Drivers, this is not the case.
27. The only requests we can accommodate for drivers are perhaps requests for flexibility on a specific day of the week i.e: request to work 4 days, generally this would apply to casuals. Our workplace has a peculiar process for selecting shifts and permanent drivers are afforded an opportunity to select a set pre-determined roster in turn by their years of service. This process enables most employees to manage their commitments away from work i.e. they may care for kids in the morning and work PM shifts whilst their partner may work an early shift with their employer.
28. Short term requests for flexibility on a particular day or week may be dealt with informally as they tend to be actioned before the 21 day period set out under the *Fair Work Act 2010*. All longer standing requests are formally dealt with through our formal policies.
29. In the last 2 years I estimate that Busways has received 4 driver requests for flexible work arrangements and 6 flexibility requests from administration staff.
30. Flexibility requests are granted wherever possible. For our business, this generally is limited to administration staff whose duties can be performed at an alternative time.
31. Requests not to work during school holidays are easily accommodated. Requests to work outside of school peak hours are less easy to accommodate given that a driver who preferred not to work at these times would have no alternative duties available to them as there is reduction in service provision outside the peak times.



Mark Rizzardo

31 October 2017

REQUEST FOR FLEXIBLE WORK ARRANGEMENTS

If you wish to request flexible working arrangements, complete this form and submit to your manager for consideration. Please allow up to 21 days to process your request.

Date: _____

Private and confidential

Employee details:

Your name: _____

Contact phone: _____

Job title: _____

Dear _____,
(Manager's name)

Request for flexible working arrangements.

I would like to request under section 65 of the *Fair Work Act 2009* (the Act) to work a flexible work arrangement that is different to my current working arrangement.

I am making this request (*tick the relevant eligibility criteria*):

- ☐ to help me care for a child who is under school age/school age
- ☐ because I am a carer (within the meaning of the *Carer Recognition Act 2010*)
- ☐ because I am 55 or older
- ☐ because I have a disability
- ☐ because I am experiencing violence from a member of my family
- ☐ to help me to provide care or support to a member of my immediate family or a member of my household who is experiencing violence from their family.

I confirm that I have worked continuously as an employee of this business for the last 12 months and am employed on a regular and systemic basis as:

☐ full time ☐ part time ☐ casual.

Please include a description of the working pattern you would like to have in the future including the days/hours/times you would like to work:

Continue on next page

These changes will assist me because: *(Insert reasons)*

I would like this working arrangement to start from _____
(Insert date)

Please identify ways the work can be performed, how your proposal may help the business or how you are committed to working hard to make the arrangements work well:

I would appreciate your response to this request, in accordance with the Act, within 21 days of today's date.

I am happy to discuss this matter at a time that is convenient. I am willing to discuss possible alternatives to the arrangements I have outlined and I am also willing to work with you to make sure that this arrangement works effectively for both the business and me. Please contact me to discuss further.

Yours sincerely,

(Signature)

PLEASE KEEP A COPY OF THIS LETTER FOR YOUR RECORDS



PROCEDURE

FLEXIBLE WORKING ARRANGEMENTS

Department: Employment

Administered By:

Depot/Operations Managers, Workshop Managers, Regional Operations Managers, Human Resources Manager

Busways is committed to providing a workplace in which employees could achieve a healthy work-life balance.

Busways recognises that at different life stages employees could seek to balance their work and family commitments by requesting flexible working arrangements. Busways remains committed to accommodating reasonable employee requests for flexible working arrangements subject to 'reasonable business grounds'. All requests will be considered in conjunction with the Busways EEO policy and the operational requirements of the business.

TYPES OF FLEXIBILITY

Flexible working arrangements include:

- Changes in hours of work (e.g. reduction in hours worked, changes to start/finish times)
- Changes in patterns of work (e.g. working 'split shifts' or job sharing arrangements)
- Changes in location of work (e.g. working from home or another location)

ELIGIBILITY

Employees are eligible to request these types of flexible working arrangements if they:

1. Are permanent or permanent part-time employees who have completed at least 12 months' service with Busways; or
2. Are casual employees who have been employed "on a regular and systematic basis" for at least 12 months, and where they have an "expectation of ongoing employment";

and

1. Are a parent or guardian of a child who is school age or younger; or
2. Are a carer; or
3. Have a disability; or
4. Are 55 or older; or
5. Are experiencing family or domestic violence; or
6. Are caring for, or supporting, an immediate family or household member who requires care or support because of family or domestic violence.

Employees who seek access to flexible work practices should be prepared to demonstrate why his/her position is suitable for the requested workplace flexibility. Where the request is unclear Busways may consider implementing the requested flexibility for a trial period (e.g. 3 months) and will set performance review criteria in consultation with the employee.

GROUNDINGS FOR REFUSAL

Relevant factors to refuse an employee's request could include:

- The effect on the workplace and business including financial impact and the impact on efficiency, productivity and customer service.
- The inability to re-organise work among existing staff.
- The inability to recruit a replacement employee or the impracticality of arrangements which would need to be put in place to accommodate the employee's request.

PROCEDURE

1. Employees must submit a formal request in writing to their manager. The request must address details of the proposed changes sought and reasons for the changes. It is preferable to use form F08-1.24.
2. Upon receipt of the written request, the manager will assess the request to determine operational/department requirements.
3. The employee will be notified in writing of the final outcome within 21 days.
4. If approval is confirmed, the employee together with their manager and the Human Resources Department will develop an appropriate plan for the flexible working arrangements including:
 - a. Time frames
 - b. Performance standards
 - c. Review periods
5. Flexibility arrangements can be terminated by either party giving four weeks' notice or at any time by mutual consent.
6. If an employee's request is denied the employee will be provided with reasons for the decision in writing.
7. If unsatisfied with the outcome, the employee may appeal to their relevant Senior Manager. It is suggested this request also be put in writing. Senior Managers will review the request in consultation with the employee's manager and notify the employee of the outcome within a reasonable timeframe.
8. In extreme cases, Senior Managers may submit the request to a Director for a final decision.

Approved by: BYRON ROWE Director

Approval Date: 1st March, 2012

Reviewed Date: 1st July, 2015

Number (QA): HR08-1.16

Tags: hours of work

Click [here](#) to compare with the previous version.

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