



# Guideline on Remote and Flexible Working Arrangements

Resource for employer and employee solicitors outlining how remote and flexible working can be organised - with a template proposal form incorporated



# **Guideline for Solicitors on Remote and Flexible Work Arrangements - July 2020**

This guideline provides an overview of four different forms of remote and flexible work arrangements. Information on how arrangements can be implemented is provided along with tips for employers and employees. The guideline concludes with a template that employees can use to develop a proposal for that they can submit to an employer.

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## Remote and Flexible Work Introduction

There are countless ways that remote and flexible work arrangements can be organised. Arrangements that are commonly in place in Irish workplaces include:

- Flexi-time
- Time in lieu, banked hours
- Job sharing
- Term time work
- Available on a retainer
- Remote working
- Taking additional unpaid leave
- Compressed work week
- Part-time work
- Part-year work
- On call contracting
- Zero hour contracts
- Purchasing additional leave
- Leave for a purpose, such as study

This guideline focuses on the four forms of flexible working that are most relevant to law firms and other legal workplaces in 2020 as the legal profession emerges from the COVID-19 pandemic crisis and returns to onsite working. The document concludes with a template flexible working proposal form.

### 1. Remote Working

#### 1.1 Why Remote Working Should Be Considered

Working remotely is a flexible work practice that enables employees to work a certain number of days or hours per week from a location other than the workplace. In most cases this means working from home.

Working remotely can form part of a formal flexible work plan, whereby an employee has set working-from-home days, or it can be offered to all staff on an ad hoc basis according to needs; for example, to attend an appointment or care for children.

##### 1.1.1 Benefits of Remote Working

- The potential to be offered as an alternative or additional flexible work option to allow employees to meet family and other non-work commitments, helping organisations attract and retain quality staff.
- Supporting employees to respond professionally and flexibly to client needs out of the office, and to accommodate tasks that occur at irregular hours (for example international phone calls).
- Cost and environmental benefits to the employee and the organisation.
- The potential to boost productivity by enabling employees to perform intellectually taxing work without workplace distraction.

- A possible reduction in absenteeism, by allowing employees – who may otherwise be absent due to caring responsibilities or other life issues – to continue to work.
- Fostering a culture of loyalty and trust.
- Enabling organisations to meet work/life balance targets, lowering staff burn-out.

## **1.2 How to Implement Remote Working Practices**

Employees and management need to be committed to flexible working practices and have a clear understanding of mutual expectations and outcomes. Ideally, management should provide all employees with integrated remote access technologies, to ensure that employees can work effectively and efficiently.

### **1.2.1 Remote Working Can Include:**

- Where suitable to the job, allowing employees to work from home on set days;
- Equipping all employees to work from home and other remote locations;
- Enabling employees to attend meetings using teleconferencing facilities.

### **1.2.2 Remote Working Matters That Should Be Agreed On**

The employer and employee should agree on the following points as part of a remote working plan, regularly reviewing the arrangement.

- Will the arrangement be temporary or ongoing?
- Should it be formalised as part of the employment contract/partnership agreement or be allowed at the discretion of the employer? If formalised, the agreement should acknowledge that the employee may occasionally be required to be present in the office on remote working days (e.g. for important face-to-face meetings).
- How many days per week will the employee work remotely? Should the arrangement be limited to certain kinds of work only? Should there be a set time/day that the employee is in the office?
- How will completion of tasks and achievement of responsibilities be recorded? This will vary depending upon the employee's level of seniority.
- What sort of equipment, technology and training should be provided to facilitate working from a remote office?
- Who will meet the expenses of working remotely? (e.g. equipment, consumables, energy), liability for any company property should also be considered.
- How will information security and confidentiality be protected remotely?

### **1.2.3 Remote Working Challenges That Arise**

- Employers and employees need to take steps to ensure working remotely does not lead to a sense of isolation from office or the work team, or loss of organisational identity. Employees who work remotely need to remain 'visible' and included.
- The home environment can have its own distractions. Employees working from home need to be disciplined and keep track of hours worked.

- There is a risk that employees working remotely may end up working longer hours than they would if they worked in the office. This needs to be carefully managed.
- Working remotely can lead to an expectation that employees should be able to complete all tasks out of office hours. Expectations should be realistic and workloads monitored.

### **1.3 Remote Working Tips for Employers**

Employers should have a written flexible work policy that supports all employees in working remotely on an as-needs basis.

This may include providing a pool of laptops, specialised assistance and other tools that staff can access as required. The policy should also include guidelines for working remotely on a more formal or regular basis.

Additionally, employers should:

- promote remote working arrangements and provide equipment and training to facilitate working out of the office;
- support administrative staff to maintain communication with remote employees;
- promote transparency with clients and colleagues regarding a remote employee's work arrangements;
- understand their occupational health and safety obligations in respect of employees who work remotely;
- schedule meetings when the employee can attend or arrange teleconferencing;
- maintain the status of employees who work remotely, ensuring they are offered quality work, promotion and business development opportunities, and continual professional development.

### **1.4 Remote Working Tips for Employees**

Employees who work remotely must perform the inherent requirements of the job and meet employer, client and colleague expectations.

Before requesting to work remotely, employees should think about the type of work they can confidently perform away from the workplace.

Additionally, employees should:

- Think about how working remotely best fits their working style. Do work habits need to be adapted to support remote working?
- Use communication skills to remain visible and earn trust;
- Create a dedicated work area at home, free from distraction;
- Remember that working at home costs money. Employees should ensure they include in their tax returns expenses such as home office and power costs.

## **2. Flexible Hours Working**

### **2.1 Why Flexible Hours Working Should Be Considered**

- Flexible working hours recognise that work can be performed at times and places outside standard office hours.
- They allow employees to meet personal or family responsibilities and commitments that occur during work hours.
- They are a way for employers to demonstrate support for their staff, adding to organisational morale and lowering attrition rates.
- They can work in favour of clients' needs for more flexible service delivery, rather than a set-hours approach.

#### **2.1.1 Benefits of Flexible Hours Working**

- Employees who are encouraged to work flexibly are likely to remain loyal to their employers and motivated to make the arrangement work.
- Organisations with good flexible working arrangements are likely to retain employees for the long-haul, and therefore maintain valuable organisational knowledge and mentors for up-coming employees.
- Promotes a culture of flexible work practices
- Is a powerful recruitment strategy for attracting talented and skilled employees.
- Research shows a positive culture of work/life balance leads to improved organisational productivity and morale.
- It allows employees to meet obligations and pursue commitments outside of work.
- Leads to well-rounded, happy, healthy and productive employees.

### **2.2 How to Implement Flexible Hours Working**

Flexible working hours can be arranged in different ways - such as:

- Increasing the span of working hours each day, starting earlier and finishing later, to enable the employee to work a four-day week
- Flexibility across an employee's lifetime such as early retirement programs and grandparent's leave
- Accrual of working hours to be taken as leave at other times for personal or family matters – an 'hours bank'
- 48/52 – allowing the employee to take an additional annual four weeks' unpaid leave on an as-needed basis, by adjusting salary to 48 weeks paid over 52 weeks.

#### **2.2.1 Flexible Hours Working Challenges That Arise**

- Flexibility is a two-way relationship. Both employers and employees need to have a flexible approach to the way work is performed.
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- Sometimes managers can lack the will to encourage flexible working hours – it can all seem too hard. Often, all that is needed to overcome this, is an investment of time by managers and employees in education and training on making it work. Information is available to help in this regard, and the payoff in terms of staff retention and satisfaction is well worth the effort.
- Flexible arrangements can lead to managers expecting employees who work ‘flexibly’ to be available all or any hours. Flexible work arrangements should provide actual benefits for employees. Managers can ensure it works for them too but they need to make a conscious effort to provide realistic workloads.
- There can be an assumption that some clients and colleagues prefer dealing with employees who work standard hours. This can be addressed via management of client expectations, education of employees and clear communication and transparency about flexible arrangements.

### **2.3 Flexible Hours Working Tips for Employers**

- Keep in mind that employees requesting flexible hours may only need to do so at certain times during their careers.
- Develop clear policies that include the organisation’s position on flexible working hours and the decision-making criteria that will apply to requests.
- Provide organisation-wide support for flexible working hours so that, as a practice, it is accepted as part of the workplace culture.
- Ensure flexible roles are redesigned where necessary to ensure clients’ needs can continue to be properly met.
- Include flexible-working employees in training and professional development programs.
- Ensure flexible-working employees have the same promotion opportunities as other employees.
- Schedule and plan meetings so that flexible-working employees are able to contribute or attend.
- Set some core times for flexible-working employees to be at work and allow them to choose their starting and finishing times to suit life and family commitments.

### **2.4 Flexible Hours Working Tips for Employees**

- Review your role to understand how it may need to be redesigned to ensure your particular flexible arrangement meets the needs of your clients and employer.
- Understand your working style to make sure the arrangement plays to your strengths.
- Identify how a flexible arrangement can benefit both your employer and you.
- Try to negotiate your working hours to suit the realistic needs of your clients.
- Find out how technology can help and use it to support your case – for example, using teleconferencing to participate in meetings when away from the office.

## **3. Part-Time Working**

### **3.1 Why Part-Time Working Should Be Considered**

Part-time work is work performed on a permanent basis and usually expressed as a percentage of full-time hours and paid on a 'pro rata' basis of the full time equivalent (FTE) role.

Part-time work suits employees who wish to work a set number of reduced hours per week in exchange for reduced (or pro-rata) remuneration. It can suit parents who have a set but limited number of child-care days or are available during school hours only.

Employers can more easily tailor part-time roles to suit jobs with limited budgets and that do not require a full-time work commitment.

#### **3.1.1 Benefits of Part-Time Working**

- Part-time staff may be less likely to experience burn-out, leading to increased productivity, morale and well-being.
- Part-timers can benefit from having well-rounded lives, which in turn can translate to employer benefits such as low staff turnover, higher productivity and transferable skills developed in other interests outside of work.
- Offering the option of part-time work allows organisations to retain experienced, skilled and dedicated professionals. It also helps in promoting the organisation as a model employer.
- Part-time working promotes a culture of loyalty within an organisation.

#### **3.2 Implementing Part-Time Working**

Part-time work can take different forms and can meet a variety of employer and employee needs.

- Two part-time employees can be employed to meet the requirements of one position in a job-sharing arrangement.
- One part-timer can be employed for positions or tasks not requiring a dedicated full-time role.
- A part-time role may complement a large team working on a particular project.
- A part-time position may be able to be performed within set hours or flexibly, in the office or remotely, as negotiated.

The manager and employee should discuss their expectations of the part-time role, especially when a full-timer is transitioning to part-time. In that case, the role should be redesigned to fit the part-time arrangement and the parties should ensure it can be sustained on that basis.



### 3.2.1 Part-Time Working Matters to Consider

- How should the part-timer's budget be structured?
- Who will manage incoming tasks – urgent or otherwise – when the part-time worker is off duty?
- What level of flexibility can be built into the arrangement; for example, will the lawyer be able to swap workdays according to demand?
- How will extra hours worked be treated with respect to payment or time in lieu?
- How much of the part-timer's role will be dedicated to billable/file work, and how much to non-billable work, such as mentoring, business development, and staff meetings?
- How will the part-time worker be supported by administrative staff?
- How will the part-time nature of the role be communicated to clients and colleagues (e.g. via an automated email message)?
- Is the employee receiving correct benefits and entitlements (e.g. superannuation, long service leave, etc)?
- What are the part-timer's professional development needs? A part-timer will continue to have Continuing Professional Development (CPD) obligations.

### 3.2.2 Part-Time Working Challenges That Arise

- Not all full-time roles can be redesigned to be performed sustainably on a part-time basis (e.g. roles requiring regular or frequent court attendance). If a part-time arrangement does not meet the business's needs, a different arrangement – such as job share – should be considered.
- There may be a tendency for part-timers to prioritise core responsibilities – such as fee earning work – at the expense of career-enhancing work such as business and professional development. This can be detrimental to business growth and the employee's career, and should be monitored, so that an appropriate amount of time is available for a broad range of work opportunities.
- The risk of 'work creep' – where a part-timer ends up effectively working full-time but is not properly remunerated, leading to pay parity issues, burnout and resentment.
- Part-timers can suffer from a lack of visibility, and thus opportunities for promotion. Employees and employers need to make an effort to ensure they remain visible as part of the team and deserving of recognition.

### 3.3 Part-Time Working Tips for Employers

- Begin as early as possible in redesigning roles for employees transitioning to part-time. For instance, discussions can be had with employees taking parental leave before their leave period begins.
- Keep in mind that part-timers are usually as loyal and committed as full-time employees and have not given up on their career ambitions.
- The status of part-time employees should be maintained, ensuring they are offered or exposed to quality work, continued professional development and business development opportunities.

- Part-time arrangements should be available to be negotiated across the organisation if possible.
- It is important to stay abreast of relevant laws which regulate part-time work entitlements.
- Ensure important meetings or in-house CPD activities are held at times that suit part-timers.
- Provide tools to support part-time arrangements - such as administrative staff access to the part-timer's emails and calendar when the part-timer is not in the office.
- Use of 'out of office' automated email reply, telephone message-bank options and other mechanisms to communicate availability and alternative contacts for urgent matters.
- Provide devices and technology to enable part-timers to handle urgent tasks or queries remotely.
- Training in skills that support a sustainable part-time practice, such as efficient and effective time management, email management and self- management skills should be implemented.

### **3.4 Part-Time Working Tips for Employees**

Solicitors wanting to transition to part-time should reflect on their role and whether, or how, it can be redesigned to be sustainably performed on a part- time basis.

They should also reflect on their work style. Part-timers should be comfortable to delegate and refrain from working on non-work days. Part-time work may therefore not suit supervisors with a high need for control.

## **4. Job Sharing**

### **4.1 Why Job Sharing Should Be Considered**

Job sharing arrangements can provide many benefits to employers and employees, including:

- Allowing employees to meet family or personal responsibilities while providing continuity of service to clients and their matters
- Providing two minds for the price of one – two employees can offer a wider base of skills, expertise and effort than one
- Employees can learn from their job-sharing partners and gain mutual support and encouragement on the job.

#### **4.1.1 Benefits of Job Sharing**

In addition to benefits already noted, other positive outcomes include:

- Full utilisation of firm resources, e.g. office space, equipment, secretary
- greater potential for practitioners to build a legal practice or specialisation than via a traditional part-time arrangement
- While standard personal leave and annual leave entitlements will apply, the nature of job sharing means there will usually be someone available to meet the client's and the firm's needs
- Retention of staff, particularly senior staff, translating to reduced turnover costs
- Increased staff loyalty from participants in well-supported job share arrangements
- Employees achieve a balance between work and family or other responsibilities, boosting morale and productivity
- Offering a point of differentiation for marketing purposes and can help meet requirements for government tenders
- Enables the lateral recruitment of senior employees
- Provides additional marketing opportunities as both employees can profile themselves to clients.

#### **4.2 Implementing Job Sharing**

Managers and employees need to work together to create a mutually beneficial arrangement. Some models and options to consider include:

##### Shared Responsibilities

Two employees share the responsibilities of one full-time equivalent (FTE) role or 1.2 FTE (i.e. both employees work 0.6 FTE). There is no division of duties. The employees are interchangeable and each employee picks up where the other left off.

##### Divided Responsibilities

Two employees share one full-time position or 1.2 FTE (both employees work 0.6) and divide responsibilities between them according to expertise and specialised knowledge.

##### Unrelated Responsibilities

Two part-timers work autonomously on their own matters but share resources, office space and support staff as if they were one employee.

Other keys to success include:

- ensuring firm-wide support of job share arrangements by having a written policy and guidelines for those wishing to implement it
- being transparent by notifying clients of the arrangement in introductory letters and retainer agreements
- providing ample administrative time for job sharers to communicate in relation to handover aspects, and budgetary relief where required
- ensuring each employee has their own performance appraisal

- putting in place a management plan that sets out consequences of a job-sharing employee departing the organisation, resuming full-time employment or otherwise exiting the arrangement.

#### **4.2.1 Job Sharing Challenges That Arise**

- Job share participants require good communication and organisation skills, and a willingness to delegate tasks.
- Care needs to be taken to avoid possible duplication of work (resulting in increased costs to the client).

### **4.3 Job Sharing Tips for Employers**

A job-sharing arrangement requires a good fit between two like-minded, committed employees who are willing to co-operate and share the workload equally. There are at least two combinations that work well.

#### Employees with same levels of experience

Both employees are at the same level of seniority and remuneration, and clients do not differentiate between them. They may share a desire and the ability to build a legal practice together, following an agreed practice development strategy.

#### Employees with different levels of experience

A senior employee is the lead solicitor and a more junior employee acts under their guidance. The senior solicitor is accountable for all matters, however matters are allocated between the senior and junior solicitor according to client preference and their respective expertise and capacity. Each may run their own matters as well as some joint matters, or all matters may be handled jointly.

### **4.4 Job Sharing Tips for Employees**

Good communication in relation to matter managements is essential. This can be assisted by:

- having some specified time in the office together;
- maintaining a status report of tasks completed and outstanding on each file;
- access to each other's work email, and emails copied to each employee;
- a shared calendar, or critical dates to be entered in both employees' calendars;
- shared electronic folders, with each employee using the same email filing system;
- up-to-date filing, including file notes typed for legibility and immediately put on file;
- an agreement as to the sharing and allocation of resources such as office or telephone, including when both employees are in the office;
- employees being available to discuss matters when they are not in the office;
- review of client invoices to address any duplication of time or costs.

## 5. Template for Developing a Flexible Work Proposal

Employees can use this template to document a flexible work proposal that they want to make. Employers can make this template available to employees who enquire about flexible work options.

### TEMPLATE

#### 1. Proposed flexible work arrangement

Select one or more from the following:

- Part-time
- Job-share
- Flexible hours
- Working from home
- Graduated return from parental leave

#### 2. Current areas of focus (client and other work)

- What are the main types of work you currently perform?
- What are your areas of specialist expertise?
- What non-billable activities do you currently undertake?
- What are your current career goals and timeframes?
- Add any other comments relevant to your current position, for example, interest in developing additional or alternative specialisations and expertise, expectations for career development and whether they are currently being met or not.

#### 3. Current team composition

- Note the composition of your team, including any existing flexible work arrangements enjoyed by team members.
- What areas of expertise exist within the team currently?
- What are the team's current strengths and weaknesses?

#### 4. Proposed changes to hours/location

- What changes are proposed to your days in the office, hours or work location? (Discuss with your partner/manager any concerns arising from, or consequences of, these arrangements, e.g. it may help with servicing clients if days in the office are consecutive. Is there a need to be in the office on a particular day

- What are the reasons for the requested arrangement? (e.g. only days childcare is available, days lectures are held, etc.)
- Are there days when you will need to leave the office by a particular time? Which days and why? (e.g. childcare finishes, training starts etc.)
- When not in the office, when and how will you be contactable?

#### 5. Possible impact on client work

- Are there any aspects of your current mix of work or any particular clients who may be affected by the flexible arrangement?
- How could those aspects be handled? (To be discussed with your partner/manager, e.g. ensure there is always a full-timer across that aspect of the work; resource matters to minimise your involvement or cover you in your absence; adjust working days or times to enable you to be available for the work.)
- Will any adjustment be required to be made to your utilisation budget? (To be discussed with your partner/manager.)
- What types of work will you be able to undertake to meet your utilisation budget?
- Will you need additional or alternative types of work in order to meet your utilisation budget? If so, what types of work could you pick up?
- How can your employer assist you to achieve your career goals under the new flexible arrangement?

#### 6. Possible impact on other work

- Will there be any change in your business development activities? (Discuss with your partner/manager ways in which you can continue to participate in business development teams, events and meetings.)
- Arrangements for team meetings and work social events?
- Arrangements for conferences or other external events?
- Will there be any change to other non-billable activities, e.g. volunteering, knowledge management, external or internal committees?

#### 7. Potential team impact

- Will the current composition of your team remain the same? Or are changes anticipated?
- When new work comes in, how will it be allocated? Has sharing the allocation of tasks been discussed?
- Who do you currently delegate to or supervise? How will those arrangements be affected?
- Will there need to be any change to the way you are supervised?
- Does administrative support need to be altered? If so, how?
- How will the arrangement be communicated to the team?

8. Clients and service delivery

- Consider current client mix. How will the flexible arrangement impact current clients?
- Should any clients be told of the new arrangement, and how will it be communicated?
- How will clients continue to be serviced? Can clients or work types be matched to other employees to handle if needed during your non-working times?
- How will telephone calls and emails be handled during your non-working times?

9. Technology and support requirements

- What technology devices do you need to help manage your proposed flexible working arrangement? (e.g. laptop, broadband, phone, teleconference facility, etc.)
- What other support might you require? (e.g. training in remote access, teleconferencing, organisational tools, home office OHS check, training to enhance skills and discipline to work flexibly).

10. Remuneration and leave entitlements

- Will your salary be adjusted to reflect your new arrangement, and if so, how? (To be discussed with your partner/manager.)
- How will leave accrual and other benefits be affected - for example, pro rata leave entitlements, salary increases, bonuses, insurance cover? (To be discussed with your partner/manager.)
- If extra hours are worked additional to the flexible arrangement, what consequences will follow? (e.g. payment for extra hours or time in lieu? Will approval be required beforehand?)

11. Review arrangements

- How and when will the arrangement be reviewed? Review should consider how it is working for you, the team (invite their feedback), manager/partner, business, and clients, plus any difficulties and how these could be overcome.
- Is a trial period necessary?
- How is it proposed to resolve any problems (for example with others involved) that may arise?