

# WFH FLEXIBILITY IN DEMAND

IT LOOKS LIKE A HYBRID WORKFORCE IS HERE TO STAY AND LAW FIRMS ARE NO EXCEPTION – BUT IT TAKES SKILL TO MANAGE.  
BY KARIN DERKLEY



With work from home recommendations now lifted, law firms are trying to woo their people back into their offices. But the shift towards working from home as a result of COVID-19 is growing, not shrinking.

The trend is firming up as employees are now well set up to work from home and are benefiting from increased productivity and work-life flexibility which allows school drop-offs, gym sessions and less pressure.

In late August, just 39 per cent of Melbourne offices were occupied, according to the Office Occupancy Survey by the Property Council of Australia. A recent RMIT survey found that those who worked in the CBD were spending an average of just 16.8 hours there and only one in eight went into the office every working day.

A study by La Trobe University's Centre for Ergonomics and Human Factors found that Victorian office workers are spending just three days a week in their primary workplace. Apart from concerns about COVID-19, the factors keeping people working from home (WFH) are avoiding long commutes, increased work-life flexibility and increased productivity, the study found.

Legal recruiters confirm that for jobseekers flexibility and the ability to work from home are on the priority list after salary, and are advising firms to build this into any offer.

Burgess Paluch Legal Recruitment director Paul Burgess says many lawyers are requesting roles that give them the option of working from home at least part of the week. "Having tried long stints at home during COVID, most lawyers are well set up and used to working from home, and they are enjoying the flexibility and lack of commuting that it offers."



Paul Burgess



David Ward



Sally Nicholes



Rachel Schutze



Paul O'Halloran

Firms that fail to offer WFH and flexibility will find it increasingly hard to recruit and retain quality lawyers, Mr Burgess says. "Recent Australian surveys have shown that after money, workplace flexibility and WFH is the number two thing employees are looking for in their next role."

It appears that many firms are heeding that message, encouraging employees to return to the office, but in a way that works for the individual, their team, and ultimately the client, rather than mandating people to be in the office, even though they have a right to do so.

Among them is Sparke Helmore which is encouraging rather than mandating people to be in the office, even as the weather warms up and case numbers fall. "Some partners and their teams prefer being in the office", says managing partner Kerri Thomas, "while others are not so fussed".

"Our main focus is accommodating our people while still providing our clients with a first rate service. We take the view that how we do that is a conversation that can and should take place at a team level." The firm is hoping to draw staff back with social events, such as morning teas, team lunches and drinks to encourage more interaction and attendance.

Macpherson Kelley is another firm that is continuing to allow its employees flexibility. The firm had its Flex+ program in place before the pandemic and chief operating officer David Ward says the firm trusts its teams to get the job done. "The 'when and where' is up to them. In practice, this means that teams choose the most appropriate work location and hours to manage both client and team requirements in consultation with their manager."

The firm encourages teams to have "anchor days" for learning and development, mentoring and client meetings, "and because we think 'culture' and trust are built when we are together", Mr Ward says. "But we recognise that quiet contemplative work can be done anywhere – and why wouldn't you want to avoid the commute, and instead drop your kids at school and go to the gym in the same time a commute normally takes?"

Hall & Wilcox's Evolve program encourages a hybrid way of working that combines the personal benefits of flexible and remote working, managing partner Tony Macvean says. "We make sure our people have the opportunity for connection and learning in the office and are well supported to work from home." The general expectation is that, depending on their role, people will spend on average at least half their time working in the office.

Others are more active in promoting the benefits of being back in the office.

At Nicholes Family Lawyers, managing partner Sally Nicholes says the firm brought in a three days in the office, two days at home arrangement following the final lockdown in 2021. "But we found that some of the younger lawyers wanted to be in all the

time because they felt so isolated during the lockdowns working from home. And some others were anxious about coming in because of health issues."

Ms Nicholes says the firm ran some mini retreats to address return to work anxiety. "We've had to remind people of the benefits of working in the office – the social aspect of work, the power of the team, learning and growth opportunities. There were people who were anxious about COVID and it is a whole new world where there are such benefits of being flexible and for people to feel less pressure that they did when they didn't have to commute. But once people settled down and realised there was a huge amount of support, they were more positive."

Shine Lawyers general manager Rachel Schutze says the firm has been encouraging staff back to the office since working from home restrictions were lifted in March. "Some of our staff could not wait to return to the office, others returned in accordance with their return to work plans over a few weeks, and there was a segment of our staff who were initially reluctant to return."

"We have tried to highlight some of the benefits of returning to our offices. We know that being back in the office has allowed easier mentoring, training and development for many. We know that our team's connection to the work we do, the clients that we have the privilege of assisting and each other is improved with time being spent together in the office. Being in the office allows for our team to grow their knowledge and experience in incidental ways that they may not obtain at home."

According to Colin Biggers & Paisley employment lawyer Paul O'Halloran, employers have a right to direct staff to return to the office, at least several days per week. He has received a number of inquiries in recent months from employers regarding their rights to bring staff back to the office. "Most employers are trying to engage with their workforce as the attraction and retention of staff is so critical at present. It is difficult to meaningfully engage with our employees if you never see them in person."

It is an inherent requirement of most roles that an employee have some on-site attendance, he says. "Failure to comply with a request to return may result in disciplinary action and may be a valid reason for dismissal." A valid exemption exists for employees with protected attributes or serious medical conditions which might place them at a risk to health and safety if they were to return while COVID-19 transmission is still high in the community, he points out. An express contractual right to work from home will also assist lawyers wanting to remain at home, he says, but very few contracts contain such a right.

But Mr Burgess encourages firms to be flexible in accommodating lawyers' requirements to work from home. "Work from home is here to stay. Employees want it, and it is cheaper on the whole for most employers." ■

## Managing the hybrid workforce

Employment lawyer Jo Alilovic has dealt with the challenges of the hybrid office, both as a principal of her firm 3D HR Legal and as an adviser to clients on how to deal with their teams during and after COVID-19 lockdowns.

While firms were forced to deal with remote working during lockdowns, the new “living with COVID” phase is more complicated, the author of *Homeforce: Building a powerful, engaged and connected home based team* says. “Now it’s about how we manage the expectations of all the different parties involved as we move forward into this new reality.”

Some employers want their people back in the office full time, while others are more open to a hybrid work model going forward. The best approach is to be honest and upfront in your communication with staff about your reasons for either approach, she says.

“For some employers the thinking is you don’t have to be home anymore so you need to come back to the office. But I would ask, do you really need them to come back? You are more than likely to get pushback if you take that approach.”

In a difficult labour market, consulting with staff as to how they might want to come back may be crucial to keeping them happy. “In the environment we’re in, with everybody assessing how they want to work, and what lifestyle they want, a consultative approach is probably going to be the best way to manage the situation.

“Throw some ideas around,” she suggests. “Do you want to be fully remote? Do you want everyone to have full flexibility to choose what they want to do when they want to do it? Do you want to have a minimum number of days in the office?”

Some employees don’t necessarily want to work from home all the time, or even a set number of days, she says. “Some just want more flexibility around their life. They want to be able



Jo Alilovic

to pop down to their child’s assembly on Friday morning for 30 minutes and then keep working.”

Providing employee incentives, such as free lunches or a pool table, may make it more appealing to go back into the office. But Ms Alilovic says it’s important not to alienate those who are mainly working from home for whatever reason. “If you’ve got a hybrid workforce, you need to make sure everyone is on an equal footing.”

That includes in meetings, where she recommends everyone should be on screen even if some are in the office. “That makes it much easier to manage the conversation because you can hear everyone equally.”

Managing a hybrid team does take skill, she acknowledges. “The success of the hybrid workforce comes down to really good management.”



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