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The big risk factors with flexible working – and how to manage them

Workplace flexibility has become a seemingly non-negotiable offering for employees in the legal services sector, but this trend comes with risks that have to be addressed or mitigated through smart management, writes Merinda Timpany.

In the year 2020, management teams understand that workplaces need to offer flexible working options to our people.

This is especially so in demanding professions such as those that provide legal services, and which expect a significant commitment of time and often require a high ‘mental load’. We also know that flexibility is not just for working mothers with young children, so we are increasingly encouraging staff in a range of roles to take it up.

The risks of not offering flexible work are obvious as firms face the prospect of regretted departures. However, the risks involved in offering flexible work may be less apparent. Done well, flexibility provides the perception of personal control and wellbeing for staff. Done badly, it can blur lines, cause people an inability to switch off from work, and even result in isolation or workplace injuries.

Support and supervision

Flexible working can mean different things to different people, but for the purposes of this discussion it refers to working outside the standard office environment or working hours. As stated, working from home or alone can cause isolation and needs careful management.

This can be done through extensive peer-to-peer support, as well as active connection with supervisors. In such circumstances, you need to consider how you manage the team and connect with people. It is about support, rather than supervision. Evidence suggests that this is not just about sending emails and instant messages to remote workers – talking is important, and video calls are even better. There are also a number of apps that allow people to communicate in real time via text and voice.

Where face-to-face contact still occurs, it may need to be managed; for example, you may want to ensure there is one day in the week, or for there to be core business hours, where all team members are in the office and arranging meetings for those times. If this connection fails and there is a disconnection, staff may experience a more rapid spiral into mental health issues than for office-based work.

Flexible work is also about supervision. It is not about whether or not the person is working – in law firms where we record every six minutes of our day, we are uniquely placed to know how staff are spending their time. Similarly, this is not the forum to consider any performance concerns. It is about making sure that the same level of supervision occurs as it would if the team were located together. This is absolutely possible, but requires thought.

For example:

- will you have regular video team or WIP meetings?
- will all correspondence be checked or discussed first or copied to the supervisor?
- will the team all commit to being in the office on a particular day?
- can you use a document system that allows you to work simultaneously on a document?

Keep it personal

Whether working remotely or in the office, certain conversations need to be done face to face. Emails and texts can be taken the wrong way and things such as performance reviews and constructive feedback need to be delivered personally (and privately).

From a workplace health and safety perspective, there are both physical and mental health considerations.

1. From a physical perspective, you need to ensure that the workstation is set up with as much thought as in an office. The worker needs an appropriately supportive chair (five points of contact with the floor and fully height adjustable), a screen that is at the appropriate height (using a laptop stand if necessary or a separate screen) and all the usual considerations about wrists, elbows, knees and feet support (when in doubt, 90 degrees).
2. On the mental health front, you need to consider the ability for employees to log off to ensure the firm avoids claims of overwork and stress.

The perception of the worker will be crucial to any worker's compensation claim – what one person perceives as acceptable may be perceived as a 'hostile environment' by another. You, therefore, need to consider all the possible circumstances of the person and the role.

Are there particular psycho-social risk factors associated with working alone? For example, for lawyers this might arise from:

- dealing with troubling content; for example, in criminal or medical negligence work;
- working long or anti-social hours;
- factoring in a pre-existing mental health risk;
- facing personal issues at home, such as personal safety issues related to domestic violence.

These decisions, as with all staffing issues, require proper consideration of the business and its people and the issues will differ for each firm. Risk factors can be ameliorated by careful social support and skills training, not just for the individual or the supervisor, but for the wider team. However, to the extent that a benchmark is useful, research recommends a maximum of 14 to 15 hours per week of flexible work – any more can result in negative effects.

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