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FLEXIBLE WORKING FOR LAW FIRMS

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PRESENTER

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Flexible Working for Law Firms - Webinar

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PRESENTER



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Introduction

Welcome to our webinar on Flexible Working for Law Firms.

This webinar will provide practical guidance on how to manage flexible working arrangements to create productive law firms. While we will focus on lawyers, many of the same principles will apply to your support and business staff.

The webinar will last for approximately 1 hour, and you can refer to this workbook for supplementary information and retain it after the session. This workbook provides supplementary information, which you can read before or after the webinar for greater understanding of flexible work.

We would like to keep the webinar interactive, so please feel free to ask questions as we go through the material. If we find that time is running over, we may need to “park” the issues or questions or deal with it at the end of the training. Some time has been left at the end of the webinar to answer any questions you may have or explore some of the topics in more detail.

Training outcomes

At the end of the training, you should understand:

- What are the flexible work options for lawyers in your firm;
- How flexible work can benefit your staff and organisation;
- How to create and implement flexible work in your organisation;
- The challenges of flexible work and some solutions to overcome them.

Topics covered include

- What types of flexible work exist in legal practice?
- Benefits of flexible work for legal practice
- How to create flexible working arrangements
- Employer’s legal obligations around flexible work
- When do you have to agree to flexible work?
- What are the challenges for legal services around flexible work?
- How do you overcome these challenges?

Flexible Work in the Legal Profession

Stacey Shortall, partner of MinterEllisonRuddWatts and winner of Lawyer of the Year in 2015, advocates for making alternative working arrangements available for all lawyers (Vaughan, 2016).

Flexible working is one of the most effective ways to increase diversity, productivity and work-life balance within legal practice. Law firms should consider flexible work to tackle the issue of gender equality, and increase the number of women in senior positions.

Who wants flexible work?

Lawyers have many different reasons for wanting or needing to work flexibly. Flexible working arrangements are popular with parents or anyone with carer duties, and those with a passion or purpose outside of the profession.

Flexible working arrangements are attractive to Generation Y's and Baby Boomers graduating towards retirement, as both groups are motivated by work-life balance (King, 2014).

Benefits of flexible work

Flexible working is good for business, with benefits for your staff, organisation, and clients. Research has proven that there are many benefits of flexible work for an organisation. In the Department of Labour 2011 survey which reviewed flexible working arrangements, 87% of employers reported that flexible work arrangements had a positive impact on their business.

Some of the benefits particularly fitting for lawyers include:

- **Increased productivity and profit** – In a global workplace study conducted by Vodafone, 83% of employers and employees reported that flexible working increased their productivity, and 61% of respondents said it helped increase company profits (Crush, 2016).
- **Better work life balance** – In the recent University of Canterbury School of Law and Canterbury Women's Legal Association study (University of Canterbury study), 96% of those who worked part time within the prime child caregiving age range reported that this helped them to balance their family and non-family commitments (Cheer, 2017).
- **Reduced stress and burnout** – Stress is a common health problem amongst lawyers, and a study conducted by John Hopkins University found that lawyers had the highest incidence of depression of more than 100 occupations (Latham, 2011). Flexible working can help address some of these issues, by allowing lawyers more time for non-work activities that can redress the balance.
- **Employee Reputation** – In a study completed by Vodafone, 58% of employees and employers surveyed believed that flexible working practises have a positive impact on their company's reputation (Crush, 2016).
- **Reduced turnover and absenteeism** – Leading Australian law firm Maddocks found that career progression and the steps into leadership position often coincided with the time staff were starting a family, so developed flexible strategies to maintain practices whilst women were on maternity leave. The firm changed the focus to work output rather than number of hours in the office. Currently Maddocks have a 98% return rate from maternity leave and have increased the number of women in partnership from 18% to 32% over a 6-year period (New Zealand Law Society, 2016).

- **Meet clients' needs** – Clients may require flexibility and after-hours services or require you to meet at their offices. Some clients prefer to not pay for the large overheads of a “bricks and mortar” firm, and prefer a reduction in their fees to a fancy office.
- **Greater gender diversity** – Whilst 61% of employed lawyers at firms are women, only 30% of the partners or directors are women (Adlam, 2017). Flexible working policies can help assist with career progression to ensure that there is an equal representation at the top of the legal profession.

Spotlight on Maurice Blackburn

Maurice Blackburn, a leading Australian class compensation and social justice law firm, has made work/life balance a priority for their employees. The firm has 25-30% of their employees working flexibly, and it's not just available to those with childcare responsibilities. Rebecca Gilson, a principal at the firm, has had various flexible working arrangements with the firm and effective communication is one of the keys to making it work. Having supportive colleagues and good support outside of the workplace have helped Rebecca and she was made an equity partner whilst on maternity leave with her second child. She has a 90% arrangement giving her the flexibility to pick up her children from school/childcare two days a week and be there for after school care. Maurice Blackburns approach to gender diversity and flexible working means a successful arrangement for the firm and their employees (New Zealand Law Society, 2014).

Types of Flexible Work

Flexible working can include formal or informal arrangements. An informal arrangement will be agreed between the employee and their manager on an informal basis.

In a formal agreement, the parties should amend the terms of their employment agreement to reflect the agreed terms. We will focus be on formal flexible working arrangements in this webinar.

Informal flexibility

- **Glide time for flexible hours** – Flexibility as to when the employee starts or finishes work, provided the employee works within the core hours required by the firm. For example, an employee may be required to attend work between the core hours of 10am to 3pm, but can start work at 7am and finish at 4pm.
- **Time off for special events** – An employee may take time off for special reasons, such as sporting events and school award ceremonies, provided they work for the lost hours during the week.
- **Unpaid leave** – An employee may have time off for school holidays or other periods of leave, on an unpaid basis.
- **Irregular working from home** – An employee may work remotely for a few hours per day or occasionally a full day from home.

Formal flexibility

Type of working	Advantages	Disadvantages
Remote working – Working from home or another location outside of the workplace. This includes mobile working, teleworking or working from collaborative workspaces such as Bizdojo, which have offices in several locations throughout NZ.	Remote working can lead to greater productivity, due to less office distraction. Collaborative working spaces provide the potential for collaboration with other industries.	Trust may be an issue. How does the manager know whether the remote worker is working? Less social engagement and reduced stimulation could affect the remote worker’s overall wellbeing. Lack of collaboration and less opportunities to discuss files may affect the quality of work.
Compressed hours – The employee may reallocate hours so that they work a shorter working week or fortnight. For example, the employee may work 40 hours over 4 days, or compress a fortnight’s work into 9 days to allow for a long weekend every 2 weeks.	This is likely to reduce travel time because they are working less days per week, and it can help workers share childcare obligations with their partner. The employee may be happier, with more days off to spend with family and friends.	Productivity may become an issue if employees are working longer hours on a daily basis. Staff may become fatigued or stressed if they work long hours.

<p>Part time working – Working less than full time hours. For example, working 3 days per week, or working 5 day weeks during school hours of 9am-3pm.</p>	<p>Part time work allows more time for personal commitments, which means staff may be happier. Part time workers may be more productive as a result of a finite time in the office.</p>	<p>A lack of visibility in the workplace may mean less opportunity for promotion, and exclusion from training and marketing events. Part time workers may be given smaller and less interesting files. They may find they work more hours than contracted or paid, due to their workload not being adjusted to suit their part time hours.</p>
<p>Flexible leave – An employee may be allowed leave in addition to the minimum legislative requirements. Flexible leave includes: enhanced parental leave; unpaid annual holidays; a sabbatical; or the option of “salary sacrifice,” such as to buy extra holiday days.</p>	<p>The worker has a better work life balance and can focus on their family life. Benefits can include greater staff retention.</p>	<p>The employee may be required to be flexible around the timing of their leave, as otherwise they may miss court dates or busy periods within the firm. Too much time off could lead to the staff losing confidence in their ability. The staff member may not have kept up to date with changes to the law.</p>
<p>Flexible training – Allow time off for training. For example, an employee may take an afternoon off each week to study towards further legal qualifications</p>	<p>The firm will gain the benefit of the new qualification, knowledge and skills the employee gains.</p>	<p>The firm would need to ensure that it has sufficient staff (such as graduates) during the working week. The firm is at risk of employees leaving and taking these new skills/qualifications elsewhere.</p>
<p>Job sharing – One job is completed by 2 or more people, who share the responsibilities between them. Job sharers do not have any legal relationship with each other, only with the employer, and are treated individually as part time employees. For example, one job sharing partner works Monday to Wednesday, and the other works Thursday and Friday, with possibility of handover.</p>	<p>Research suggests that a job share arrangement between 2 people is 25% more productive than their full-time equivalents (Job Sharing NZ, 2017). Clients can benefit from more than one lawyer on a file. This arrangement allows staff to take holidays at different times for greater availability for clients.</p>	<p>Challenges include communication, handover of files, and working with clients. The firm may need to write off costs if two lawyers are discussing a file, when only one was required. Replacing a job share partner can be difficult if one decides to leave or resume full time employment.</p>

<p>Outsourcing – Use independent contractors to complete work that may only be required for a short-time period. If you have a short-term project or don't want to commit to employing someone on a permanent contract, you can outsource the work to a person or company for that time.</p>	<p>Contractors only need to be engaged on an as and when required basis, so are useful when there is high workflow or a short timeframe for turnaround. Contractors have expertise in a particular area, and will generally not require training.</p>	<p>Contractors tend to be more expensive. Ensuring that the quality of work is at an acceptable standard may be an issue.</p>
<p>Time banking – Working extra hours and being able to take them off at a later date (also known as “time in lieu”). For example, if an employee works 10 hours on a day (rather than 8 hours), they can take 2 hours at a later date to finish early, or bank more hours to take a full day off.</p>	<p>Time banking can be useful if there is a big project or case that will require more hours than usual. It means the employee is more likely to want to work those extra hours if there is a benefit attached.</p>	<p>The firm will need to ensure that the hours banked are used within a certain time, say 3 months, and may want to limit the number of hours that can be banked this way. Accurate recording of the hours will be required.</p>

How to Create Flexible Work Within Your Organisation

Legal requirements

Every employee in NZ has a right to request a flexible work arrangement for any reason, in accordance with Part 6AA of the Employment Relations Act 2000.

Consider request

Employers have a “duty to consider” any written requests for flexible working arrangements, and consideration must be given in a fair way and in good faith. The employer must respond to the employee’s request as soon as possible, and within one month of the request being made.

Approve request

If you approve the request, you must respond in writing and confirm the changes to their employee agreement. This includes any changes in salary, holiday entitlements and benefits. You can temporarily approve the request, for review at an agreed date before you make a final decision.

Decline request

Employers can decline a request if it comes within s 69AAF of the Act, on any of the following grounds:

- Inability to reorganise work among existing staff;
- Inability to recruit additional staff;
- Planned structural changes;
- Detrimental impact of quality;
- Detrimental impact on performance;
- Insufficiency of work during the periods the employee proposes to work;
- Burden of additional costs;
- Detrimental effect on ability to meet customer demand.

An employer is required to refuse a request for flexible working arrangements where the request is inconsistent with the collective agreement to which an employee is bound.

Employers must respond to any written request within one month, stating the ground and reason for refusal, if the request is being declined.

Process to create flexibility

So, you’ve decided you want to become a flexible workplace. What next?



Strategy

You must decide what your business needs are and how creating a flexible workplace will fit in with this. Consider whether flexible work will align with your law firm, by addressing the following questions:

How will it affect your clients and stakeholders? Will you still be able to provide the service that your clients require? Could it improve the service you provide your clients? Is there sufficient support within your workplace for flexible working? Can you manage challenges that may arise with flexible working in your law firm?

If you have answered “Yes” to these questions, you are ready to prepare and implement your flexible working policies.

Workplace policies for flexibility

Policies clarify the expectations of both the employee and employer around flexible work. Having a clear policy on flexible working can encourage staff members to use it, therefore retaining and attracting staff members who want flexible work. This will make your firm more attractive to potential candidates.

How will this look? Consider what policies are required in your firm. You may consider the following questions when creating your flexible working policies:

Flexible work

- **Requests for flexible working arrangements** – Have you defined various flexible working arrangements, including both formal and informal arrangements? Have you provided staff with information on how to request flexible working arrangements? Do you have a template for them to use?
- **When the employee must be contactable** – Will your flexible workers be expected to remain contactable (perhaps infrequently) between 9am - 5pm as they would in the office? What will they do if they are uncontactable at any time?
- **Use/misuse of technology** – Can your flexible workers access the server remotely? Will they be able to use company technology, such as work phone and laptop, for personal use or will these items be strictly for business use only?
- **Confidentiality of employer/client information** – Will your flexible workers require a lockable cabinet for confidential paperwork? Is their internet security up to date if they use their home computer? Who else can access the home office and company technology?
- **When employees may be required to come into the office** – Set the minimum requirements for attendance in the office and accessibility for clients. Are your flexible employees expected to come into the office once a week or for the monthly team meeting? Will they have a desk available to them when they do come into the office?
- **Health and safety** – Is the flexible worker’s home office set up correctly? Are there any risks you need to be aware of? How will you conduct an assessment? How will you ensure staff are not working too long hours and at risk of stress or fatigue?
- **Expenses incurred by working from home (such as use of home internet, electricity)** – The employee will inevitably use more of their utilities if they work from home, so how will the expenses be claimed back and how? If they are using a collaborative workspace, who pays for the use of this?

- **Record hours** – How will you require your flexible employee to record hours, particularly billable hours?
- **Regular reviews of the arrangement** – How often will the arrangements be reviewed? Will there be a trial period at first (with confirmation of formal arrangements upon review)?

Job sharing

- **Complementary skills and attributes** – Will you allow job sharing arrangements if both partners are at a similar skill level? Do they have similar strengths and attributes? How can they use different skills and attributes to their advantage?
- **Communication and handover** – Will you have robust conversations with both job sharing partners prior to the job share? Who will take ownership of the files and clients? Can the job share partners communicate effectively? How will handover work? Will both job share partners need to attend work at the same time? If they aren't physically in the office at the same time, will they both be copied into all communications?
- **Recruitment** – Will you advertise positions as open to job sharing (and other flexible) arrangements? Would you do your best to find a replacement if one job sharing partner leaves, but include a clause in their agreements that this may not be possible?
- **Flexibility to meet legal and business services** – What is the job sharers' flexibility to meet legal and business services? Does one of the job sharing partners have more flexible childcare arrangements than the other?

Flexi leave

- **Extended parental leave** – How long do they require on extended parental leave? What are the conditions on their return to work, are they required to stay with the company for a set amount of time when they return? How will they keep up to date with any legal changes?
- **Study leave** – Will you pay them whilst they are on study leave? Will they be required to work for the company for a set amount of time in return for this flexibility? Will the qualification they are working towards be beneficial to your firm?
- **Sabbaticals or extended holidays** – How long will they require and when? Will you be able to maintain your client's cases whilst they are away? Are there sufficient resources within the firm to cover this employee whilst they are on leave?
- **"Buying" extra holiday through a salary sacrifice** – Does the firm have the capacity to accommodate the extra leave? Will you set time limits on when they will be required to use the extra holidays by or will staff be able to accrue the extra leave?

Return to work

- **Reconnect programmes** – Will you have reconnect programmes for staff who are returning to employment following a period of parental leave, a sabbatical or unpaid leave, or upon their re-employment to the firm? Consider a phased return to work upon return from parental leave or extended leave.
- **Connect with alumni** – Do you reach out to alumni who may have travelled or worked elsewhere?

Retirement plans

- **Phased retirement plans** – Would you consider reducing the hours or workload of someone during the period leading up to their retirement?

Flexi training

- **Payment** – Will you pay staff for time away on training if it is deemed relevant to their position? Will you pay for their Professional Legal Studies course?
- **Bond to firm** – Will the worker need to stay with your firm for a set period of time, upon gaining the qualification?

Culture change

One of the most common themes from the University of Canterbury survey was the need for consistency between the workplace policies and actual workplace practices. On their own, your policies are not going to change your firm to a flexible working environment.

You will need to create a culture change. The first way to do this is to let your leaders know how to create that change. Support them by providing them with training on how to deal with flexible working requests and manage remote workers. Help them understand employees' personal and individual needs and how flexible working can benefit the organisation.

Inclusive of all staff

Flexible working works best if it is available for everyone in the office, and not just primary carers. Adopt an approach which encourages everyone to take time off to improve wellbeing and reduce stress.

Flexible working is often perceived as an option for female staff, however if we are going to achieve true gender equality, men should be given the same opportunities as women to work flexibly. Make sure your policies are gender inclusive.

Measure for success

How will you be able to assess if these arrangements are working well for your firm? Well, hopefully you will have happy and productive staff members!

You can measure staff engagement through annual engagement surveys, productivity measures, staff retention, rates of sickness and absenteeism. Other ways to monitor engagement include checking whether staff are networking with colleagues, have initiated new projects, and discussed career paths and promotions.

Spotlight on Culture at PepsiCo

The Chief Executive of PepsiCo Australia and New Zealand, Robbert Rietbroeck, created "Leaders leaving loudly" so that when team leaders leave, they feel comfortable doing so, and it sends the message to all the team that leaving on time or early is ok! He is a champion for flexible and family friendly working, and although the company are attempting to increase the number of women in their senior management roles, he emphasises that it's not just for women, but for men as well. This commitment to flexible working and a good work/life balance has led to a reduction in staff turnover from 12% to just 7% over a 2-year period (Chung, 2017).

Case Studies

We have provided four case studies of flexible work in legal practice in New Zealand. All are exemplary studies of flexible work in action.

Law firm leader in flexible work

Odette Wilson, Chief People and Performance Officer at MinterEllisonRuddWatts

Odette Wilson has worked for MinterEllisonRuddWatts for 4 years, the last two implementing people management strategies. One of Odette's responsibilities is to manage the flexible working arrangements for the firm.



Types of flexible work

Some of the firm's flexible working arrangements include job shares, condensed hours, and part time working arrangements. Some of the equity partners and senior associates work part time, including men.

How MinterEllisonRuddWatts encourages and creates a flexible working environment

Partner Stacey Shortall has been instrumental in implementing flexible working arrangements as part of the firm's commitment to create gender diversity in the firm. Flexible working arrangements are encouraged and created through the following ways:

- **Flexible policies and toolbox** – As a firm they talk about flexible working and clarify this through policies. They are putting together a toolkit for managers and employees about working in a flexible way to apply the flexible work policy.
- **Empowerment, Diversity and Inclusion Workplan** – The firm has an Empowerment, Diversity and Inclusion (EDI) workplan that focuses on communication, with opportunities to share stories, through newsfeeds, electronic newsletters and more formal channels. Everyone involved in the EDI is aware of what they are trying to achieve.
- **Flexibility is visible at senior level** – Flexible working is made visible at a senior level, including for fathers. This helps to encourage other staff members to make the most of these opportunities.
- **Consider requests with robust discussions** – If a staff member requests flexible arrangements, the firm will consider logistics for that employee's role. Both parties will discuss all likely scenarios to clarify how flexibility would work and establish any protocols (and the firm has a template to assist the parties in their discussion). There is a review period for the parties to consider how flexibility is working.
- **Recruiting for flexibility** – The firm advertises both legal and business roles as flexible. Advertisements state that they would consider part time, job share, and flexible working arrangements. This has led to a change in candidates, who may now openly request flexibility.

- **Childcare is paid as required** – In some situations the firm may pay for childcare if staff need to work longer hours.

Benefits of flexible work

- **Employ best candidates** – The firm can employ the best people for the job rather than just those who can work full office hours. They are more open to employing great people who may not otherwise work in private practise, due to preconceived ideas of how a law firm “should” look.
- **Gender diversity has improved** – This includes at senior level: 40% of the board are women, 45% of the Wellington partners are female and overall 60% of the employees are female.
- **Greater availability during holidays** – Benefits of job sharing includes making sure there is always someone available if the job sharing partners take holidays at alternative times.
- **More efficient** – Part time workers are hugely efficient as they have a finite time available.
- **Improved Wellbeing and Productivity** – Since establishing a flexible working environment, the firm has seen a difference in their employees’ wellbeing and productivity.

Challenges of job sharing

- **Job sharing partner resigns** – If one of the job sharing partners resigns, it can be a challenge to find an appropriate job sharing partner.
 - **Solution** – The job sharing partner’s individual employment agreements should both include a clause stating that if one of the job sharing partners leaves, the firm would do its best to find a replacement, but this may not be possible.
- **Ownership of files and clients** – Who will take ownership of the files and clients?
 - **Solution** – Be clear how the job share will work and how handovers and clients will be managed. Will there be a handover of all information and updates? If the job sharing partners aren’t physically in the office at the same time, will they both be copied into all communications? Establish protocols for different scenarios at the beginning of the job share arrangement and ensure there is a common understanding about how flexible each may need to be.
- **Flexibility to meet legal and business services** – What is the job sharers’ flexibility to meet legal and business services?
 - **Solution** – One job sharing partner may be more flexible than the other in terms of outside work commitments. For example, one of the job sharing partners may have more flexible childcare arrangements than the other. The job sharing partners should agree how this will work and be given the opportunity to readjust and reassess the job share arrangements on an ongoing basis.

Challenges for part time workers

- **Working outside of agreed hours** – It can be difficult not to schedule meetings on days off.
 - **Solutions** – Ensure a flexible worker’s usual days/hours in the office are set out on the calendar, so other staff can quickly check before scheduling a meeting. The law firm’s intranet should allow all employees’ hours and days worked to be recorded and viewed.
 - Set clear boundaries for when your part time workers are in or out of the office, and the times they are contactable. Be clear and upfront about your expectations of flexibility by discussing this with the employee from the start.

- **Unrealistic expectations for part time workers** – Part time workers may find that there is an expectation that they will work longer hours than they are paid to work. Targets for part time equity partners may be unrealistic.
 - **Solutions** – Ensure part time workers’ billing targets are pro-rated to the number of days/hours that they work. The amount of non-chargeable work (such as marketing) should also be pro-rated.
 - Part time equity partners’ targets should be pro-rated to the number of days/hours that they work, as should proceeds from the equity.

Spotlight on Stacey Shortall, Partner at MinterEllisonRuddWatts

Stacey Shortall, one of the partners at MinterEllisonRuddWatts believes that more needs to be done to address the lack of gender diversity in particular in the upper echelons of law firms. She refers to the ‘maternal wall’ that she believes goes up based on preconceived negative assumptions about the commitment and career aspirations female lawyers have once they have had children. In firms with these assumptions, it is difficult for female lawyers to break through that wall to achieve career progression and partnership. This in turn leads to female lawyers leaving law, based on the notion that being a lawyer equals long hours and high pressure, with little support for flexible working.

How does she think that this exodus of women from law could be prevented? The measures she suggests are:

- Alternative working arrangements available for all lawyers
 - Mandatory “Unconscious bias” training for all lawyers
 - Offering and encouraging paid maternity and paternity leave
 - Having sponsors and mentors who respectively promote and guide young lawyers
 - Recognise and reward commitment to diversity
 - Have an attractive pro-bono practise that will attract female lawyers
 - Encourage law firm leaders to set and monitor gender diversity benchmarks
- (Vaughan, 2016)

Partner with flexible hours

Stephanie Ambler, Partner, Tompkins Wake

Stephanie is an equity partner at Tompkins Wake. While she meets the commitments of a fulltime partner, she works 4 days per week and has flexible hours of work. She can change her days based on other commitments and sometimes works from home.

Stephanie strives for a balance between being the best mum she can be with meeting targets and performing well at work. Her firm and other partners recognise that her contribution is equal, and are supportive of her flexible work practices.



How Tompkins Wake encourages and creates flexible working practices

- **Requests assessed individually** – Flexible working arrangements are assessed on a case by case basis. Whether the firm approves a request depend on factors including the staff member who is making the request, the length of their service, and their role within the firm.
- **Remote server** – Staff members may work from home by logging into the remote server.
- **Part time arrangements** – Some legal and support staff members work part time. This is usually 3-4 days per week.

Benefits of flexible work

- **Greater productivity** – is one of the key benefits for Tompkins Wake. By recording time worked, the firm has been able to see that its part time staff are often more productive than those working a 5-day week.
- **The firm retains skilled staff** – This includes 3 great employees in one department who all work part time. These staff members may have left the firm had it not been for flexible working arrangements.

Managing challenges of flexible work

- **Meeting both personal and work commitments** – Commitments outside of work can be the biggest challenge for flexible workers. Court on a Wednesday or overnights in Auckland for court commitments can be difficult to schedule around childcare commitments.
 - **Solution** – Having a supportive spouse or partner, and a good home set-up are important to making this work! If there is ever anything urgent to be dealt with, it is useful to be generally available by phone.
- **Quality of work** – Attracting the quality of work can be difficult for flexible workers, who may not always be visible. Part time workers may be given smaller or easier files rather than challenging work that might progress them. At a more senior level, part time workers may not be available to attend marketing events.
 - **Solution** – If it is an important event, then ensure you are available to go. Again, having support at home is essential for this. Understand that you don't have to go to everything to market your firm. Doing an excellent job is a great way to get referrals.

- **Managing client expectations** – Clients should be provided alternative contact details for times the flexible worker is out of the office.
 - **Solution** – Stephanie has a good team in place and an assistant who can help when she is not in the office. She tells all staff when she will be available (and unavailable), and advises clients that she doesn't work on Wednesdays.

Stephanie's tips for flexible workers

Find a firm that is the right fit, with law firm partners who are supportive of your wish to be a good parent and your desire to maintain a flexible work-life balance.

Remote worker with paperless practice

Phillip Cornegé, Barrister, Thackeray Chambers

Phillip is a barrister who has a completely paperless practice, which allows him the freedom to work from anywhere at any time. Everything is stored in the cloud and electronically, so is accessible regardless of location.

While he works an average of 40 hours per week, Phillip works flexible hours to accommodate his young family. This includes pick up and drop offs to school/preschool 3 days per week, and he doesn't work on Friday afternoons.



Benefits of flexible work

Phillip has gained the following benefits from keeping a paperless office, working flexible hours, and working remotely from home:

- **More family time** – The main benefit is more time with his children. Working from home means no travel time, allowing him more time for work or exercise. Remote work allows him to work on holiday as required, which means he is more likely to take holidays!
- **Greater accessibility for clients** – Clients can access him regardless of location. Technology enables him to deal with client issues promptly, and he can access all resources on his laptop.
- **Greater productivity** – Working from home is more productive, as he can focus on work without any interruptions.
- **Savings** – There are long-term savings of running a paperless office, as there is no need for printing, and less expenditure on stationery.
- **Greater convenience** – When travelling for hearings, he enjoys the convenience of taking an iPad rather than boxes of documents.

Managing challenges of remote work

- **Overwork and reduced work-life balance** – Technology allows him to work from anywhere at any time, so the challenge is to stop himself from working anytime of the day or night or while on holiday.
 - **Solution** – He has become self-disciplined to stop himself from working “just for the sake of it”. He doesn't work between 5:30pm and 8:30pm due to childcare responsibilities.
- **Lack of collaboration** – There is a lack of collaboration working from home.
 - **Solution** – He works from Chambers and has a law student to work alongside him. They use the same server as most links such as Dropbox have multiple licences, so he provides links to documents which they can access.

Managing challenges of paperless practice

- **Security or loss of documents** – Lawyers who don't print documents need to ensure that their information is secured and will not be lost. Ransomware is a particular concern if stored electronically.
 - **Solution** – He uses a password and app on the phone with an ever changing code to access the documents as a means of security. He stores his information on Dropbox and backs up online on Crashplan and Backplaze. If the documents were hacked and encrypted, he can download the most recent version of the documents on Crashplan and Backplaze.
- **Difficulties and cost in setting up IT** – While it is not difficult to use IT for remote access, sometimes lawyers find it difficult to set up. There is the initial cost of software and hardware.
 - **Solution** – Find someone to help you set up through cloud or remote desktop access. Training courses can assist with this.

Spotlight on Phillip Cornegé's tips for paperless offices:

- Make sure you have a back-up plan. If you work on your own, you should have both a laptop and PC available, so you can always keep working even if one is out of action.
- Back up documents securely, such as using Crashplan and Backplaze.
- Attend Phillip's training through NZLS and NZ Bar Association on "Paperless offices" and "Paperless hearings". Find out why you should go paperless, and tips on hardware, software and how to present without paper in court.

Flexible legal services provider

Helen Mackay, Director and Lawyer of Juno Legal

Helen Mackay founded the bespoke legal services provider, Juno Legal, because clients told her they wanted flexible options, to create flexibility in her own life, and to provide other lawyers greater opportunities for flexibility.

Juno Legal provides flexible solutions for organisations wanting legal counsel on an interim or project basis, by providing a hybrid option for those clients that sits between engaging their own employee and instructing a traditional law firm.

Helen embeds in-house lawyers in existing legal teams, provides an in-house legal function as a seconded sole counsel, and supports businesses remotely.



How Juno Legal encourages and creates flexible working arrangements

Helen has achieved flexibility and short-term engagements for lawyers by employing them under her law firm, and then agreeing service standards with clients.

- **Recruiting for fit** – When Helen meets a prospective Juno Legal team member, she explores whether they are a self-starter, can work autonomously, their key motivators, and their capacity for variable workloads.
- **Flexibility** – Her employees have flexibility in terms of how much work they wish to do each week, month or year; when they take holidays; and where they work from (subject to client preference). One of her employees works as far away as Chile. It often doesn't matter where her staff work from, provided that they can deliver to a high standard and manage the deadlines within any time difference.
- **Reduced overtime** – Employees are encouraged to work as much as they want and no more. Helen feels too many people sacrifice effective remuneration for flexibility by delivering a full-time role in part-time hours. If an employee regularly works more than 10% over agreed hours, Helen will work with the client to rescope the role and how that need will be met, potentially across two lawyers both contributing or by recognising the higher number of hours worked by an individual lawyer.
- **Meeting with clients' legal teams** – Helen works with in-house legal teams on their strategy, performance and service delivery model. Her time is divided between Juno business and working with key clients on how they serve the business. The reality of in-house professional services means that demand is infinite. Juno Legal helps encourages in-house teams to prioritise the most important work and manage demand by supporting with flexibility and manageable workloads.

Benefits of outsourcing and flexible work

- **Staff can design their career around personal commitments and interests** – Many of the lawyers at Juno Legal have flexible working arrangements to fit in with other commitments, such as launching a start-up, further study, travel and caring for children.

- **Staff have true flexibility under a team structure** – Lawyers are required to practise on their own account if they wish to contract out their services, in accordance with the Lawyers and Conveyancers Act 2006. Many in-house lawyers would like to gain greater flexibility but do not wish to practise on their own account. Lawyers can only apply to practise on own account if they have worked full time for three of the last five years (unless they seen an exemption). Juno Legal solves this problem by providing a platform for staff to have the benefits of a contracting model while building a collaborative team and learning culture within Juno.
- **“Flex up or down” existing legal team as required** – Employers can “flex up” their existing legal team according to demand by engaging Juno Legal. Increasingly, a lot of public sector organisations have capacity and headcount issues, and employing another staff member is not an option. Juno Legal provides clients the ability to engage short term resources as needed and then to terminate an engagement when that need is met.
- **External perspective for legal team** – Juno lawyers bring their external perspective to identify a client’s legal needs and opportunities for improvement and to help their team better meet the needs of the organisation they serve.

Any potential challenges of flexible work

- **Isolation for lawyers** – Many employees desire to be part of team, and it is difficult to collaborate or discuss ideas if staff only work from home.
 - **Solutions** – Juno Legal provides staff with options to connect and collaborate using Microsoft Teams internal chat functionality and by regular communication and peer review. If employees are embedded within an organisation, the existing legal team or project team gives the lawyer the desired collaboration opportunities.
- **Holiday scheduling** – School holidays can present a challenge for Juno Legal and their clients because many lawyers are parents who want time off work at the same time.
 - **Solutions** – Wherever possible, manage work and project deadlines around known absences. Engage staff who have a range of flexibility drivers so school holidays won’t be an issue for all. Helen has arranged childcare for staff at her house, and is investigating options for creating a school holiday programme for children of Juno lawyers.
- **Managing client expectations** – It is important to manage client expectations around flexibility for Juno lawyers.
 - **Solutions** – The key factor is good communication with clients to exceed their expectations on delivery and to manage their expectations on coverage. This involves being clear on what is being delivered and the realistic capacity of each lawyer. Juno Legal can terminate an arrangement if client behaviour doesn’t meet its required standards. For example, if a client regularly overscheduled a lawyer with work that could not be delivered in the engaged hours, Juno would first try to resolve this but ultimately would terminate the arrangement with that client if the situation continued.

Spotlight on Helen Mackay's tips for law firms interested in alternative models:

- Law firms can flex up and down according to workload by engaging consultants or lawyers practising on their own account.
- Fixed term employment agreements can be useful for law firms who require additional staff for a particular project (such as litigation or a transaction).
- Consider confidentiality – ask the consultant how they store documentation and keep this confidential. For Juno, embedded lawyers operate strictly within clients' IT environment and do not share or store material in the Juno environment.
- Making people feel they are part of a team and contributing effectively is important regardless of their working arrangement.

Managing Challenges of Flexible Work

Whilst there are many benefits to flexible work, challenges may arise. These can relate to the difficulties with supervision, expectations of other staff and clients, lack of support for flexible working, and the perceived negative impact flexible working can have on a career and workplace. Some of these challenges may be more pronounced in the legal profession but most can be managed.

Supervision and trust

How do you supervise someone you can't see? How do you know if they are producing that report or sitting with their feet up watching Netflix? Trusting that your employee is doing the work and doing it well can be difficult if you cannot just pop by their desk and check on their progress. Flexible working arrangements may compromise the quality of work produced if lawyers are not receiving adequate supervision.

Solutions:

- **Trial remote working** – Before making it a permanent arrangement, ensure the employee is a suitable fit.
- **Monitor record keeping** – Require flexible workers to keep accurate time records of what they are working on and the amount of time spent on each file. Your time-based recording should be accessible through the remote server.
- **Measure output** – Measure output to ensure it is in accordance with recorded hours.
- **Monitor work regularly** – To ensure your flexible workers are producing the expected quality.
- **Allow greater flexibility for greater skills** – You may allow more flexibility for workers who can provide a high quality of work without any (or with less) supervision.
- **Monitor performance and progress** – Are your flexible employees performing as well as they would if they were in the office? If not, then why not? Are they distracted by other things if they are working at home?
- **Ensure workload is realistic** – If they are working part time, is their workload realistic?
- **Meet regularly** – Provide regular one to one meetings and performance reviews every quarter or six months.

Health and Safety – overtime and home offices

How do you ensure that the home office or collaborative working space is safe? Health and safety rules apply to home offices as well as workplaces, so your firm is responsible for ensuring that the office equipment is safe, and that the employee has sufficient knowledge of your health and safety policies.

Flexible workers may be at risk of stress or fatigue, particularly if they work compressed hours, work unusual hours, or if they are part time workers who work longer hours than they are paid to work. Juggling work and personal commitments may lead to stress for the employee. These factors will impact on the employee's overall health and wellbeing, negating any benefit of working part time.

If your employee works compressed hours, how do you manage any ensuing risks to health and safety? What is the risk of overtime as a potential workplace stressor?

Solutions:

- **Assess Health and Safety** – Visit the employee's home office or remote working space if possible, or have a health and safety risk assessment. Is their home office set up ergonomically? Are there any risks from cables? Is the equipment suitable for their needs? Are there any other significant risks or hazards?
- **Provide training on health and safety** – To all employees.
- **Check in with flexible workers regularly** – Ensure their existing case load is manageable. If you notice they are sending emails at odd hours of the day (such as at 2am) on a regular basis, then talk to them, find out if they need some help or if they want to make some changes to the arrangement.
- **Set realistic workloads for part time workers** – If a full-time employee case load is around 30 files, then an employee working 20hrs per week should have around 15 files.
- **Ensure that the employee is aware of any risks** – Associated with working long hours and take steps to mitigate these such as breaks on a regular basis.
- **Encourage flexible workers to switch off from work** – For example, do not check emails on days off.

Technology and confidentiality

We live in a technological age, which means remote working is a possibility, but this can lead to problems. When you are in the office it is easy to get in touch with your IT team to sort out problems. But what happens if you are remote working and it is 7am? What happens if you have forgotten a file, or you didn't print it when you were last in the office, and now you need it? These scenarios can lead to a loss of productivity for your remote worker.

If you allow remote working, then you need to provide the tools to enable this. Can your staff access and use technology required to do the job effectively when out of the office? Will they have access to files, apps and the intranet if required? Are they capable of using the technology without assistance? Consider how your remote workers will preserve confidentiality of clients and intellectual property regardless of location.

Solutions:

- **Provide staff with remote access** – To emails and the server, and the necessary equipment such as laptop, phone, and iPad.
- **Train employees** – On all the technology available so they can work remotely, with troubleshooting guides for the most common problems.
- **Do not allow use of personal devices** – Such as USB flash drives.
- **Require physical security of documents** – Provide access to a secure suitcase/drawer/cabinet to store files when not in use.
- **Security of electronic equipment** – Require remote workers to keep all information secure and computer screens locked. If working in a collaborative space, require staff to use secure printing only. Ensure internet security is up-to-date and sufficiently robust. Require staff to save their information to the server.
- **Remote assistance for IT issues** – Ensure any IT issues can be dealt with by phone or through a remote app.
- **Prepare robust IT policies** – That clearly set out any rules for personal use and confidentiality of material.
- **Collection of printing outside of hours** – Allow flexible employees to collect printing and access the office after hours.
- **Paperless training** – Attend training on paperless offices and paperless court hearings, such as courses facilitated by Phillip Cornegé.

Career progression

Part time lawyers believe that their working arrangements have a negative impact on their career progression (University of Canterbury study, Cheer, 2017). Reasons for this may include lack of management support, reduced access to training opportunities, and unconscious bias.

Managers may favour full time workers who are visible in the office. This can result in flexible workers being passed over for projects or promotions.

Lack of career promotion can be demotivating for staff. Failure to promote these workers may result in them leaving your firm, taking with them their experience, knowledge and skills. Some of your most talented workers could be leaving your law firm due to lack of career progression associated with their flexible working arrangements.

Solutions:

- **Consider flexible workers for challenging files and promotions** – Don't overlook your part time and other flexible employees when delegating your big projects, case load, and promotions.
- **Flexibility can be reciprocated** – Just because someone is on a flexible arrangement doesn't mean they must stay that way. Communicate with your employees and discuss any flexibility you require from them if they want career progression.
- **Encourage relationships and networking** – Encourage remote and part time workers to establish relationships throughout your firm, and work with colleagues on an ad hoc basis.
- **Projects can be job shared too** – Two heads are better than one!
- **Reward performance and outputs** – Rather than time spent at their desk. This is easier to do with value billing than billing strictly on a time basis. Consider moving away from the billable hours model, and adopt a fixed fee billing system.
- **Praise staff and acknowledge their performance** – Even when they are not in the office.
- **Unconscious bias training** – Provide managers training on unconscious bias and managing flexible staff.

Training and Networking Opportunities

Public training and networking opportunities may not coincide with a flexible worker's schedule. It can be difficult to schedule training and networking opportunities within the law firm around everyone's commitments. However, attending training and networking events is an important part of a lawyer's role, and progressing towards partnership. Generally, most events tend to happen in the evenings, but is this always the best option?

Solutions:

- **Offer a variety of training sessions** – On various days and times to suit all flexible workers, such as evenings or early morning sessions.
- **Swap days to attend training** – Ask part time workers to swap their days of work to attend any essential training.
- **Provide online training** – Or training through Skype or video conferencing that can be accessed from anywhere.
- **Keep your workers informed about any training** – That would be of benefit to them and their career progression.
- **Vary the times of networking events** – Do they always have to be evening events? Breakfast events or networking meetings are becoming more popular, and may be more productive than evening events.
- **Schedule events in advance** – So that they employee can make alternative arrangements if they have carer responsibilities.
- **Create a buddy system** – so if an employee can't attend a networking event to training, they have someone suitable who can replace them in their absence, and keep them informed.

Type of work

It is tempting to give a part time lawyer the "quick" cases, or the files that are less complicated, due to the employee's limited hours. However, this shouldn't be the case. If an employee works less hours or is returning from parental leave, does this mean they don't want challenging work? Transactional work such as property settlements can be difficult for flexible workers, so consider how to manage this work.

Solutions:

- **Communicate with the employee** – Is their current workload sufficiently challenging? Do they feel their skills are being utilised?
- **Allocate work based on skill** – Have you altered the type of work that you have given staff because of flexible hours? If so, why?
- **Similar work** – Upon return from parental leave or a sabbatical, have you given staff similar work to what they were previously doing?
- **Require more than one staff member to work on a larger file or a transaction, such as a property file** – Make sure a staff member who understands the file is always available as required to complete a transaction.

Communication

How do you manage communication, particularly with remote workers? How do you ensure staff are collaborating well together? How can you encourage employees to interact when they don't share the same office?

Solutions:

- **Requirement to spend some time in office** – Make sure your remote worker has at least 1 day in the office a week.
- **Availability for team meetings** – Ensure your entire team is available at least one day per week for team meetings. This will help them maintain better working relationships with colleagues, and give the opportunity for collaboration and creativity.
- **Communicate through technology** – Encourage your employees who work in different offices to interact using technology such as skype and video conferences, and apps such as Slack or Yammer.
- **Agree upon communication preferences** – Would you prefer to provide feedback by email, phone, text in the first instance?
- **Keep all staff informed** – Ensure any urgent and essential information about your firm is shared with all employees quickly and clearly.

Managing clients' expectations

Some clients may wish to contact their lawyer every day of the working week, rather than those days that their lawyer works. How do you meet client expectations? How do you ensure that the client has continuity with their file? How do you maintain client contact? What if a situation arises where an issue needs to be dealt with quickly?

But, what if we flip that notion of on its head? What if clients want more flexibility to meet outside of those times? Could a flexible working approach help you gain more clients? For example, 7am breakfast meetings? Does the client want a lawyer's assistance only two days a week? Your flexible workforce could meet those needs.

Solutions

- **Always give at least two contact names to any client** – And ensure at least two staff members are working on a file to cover a full working week.
- **Be honest with the client** – If the employee is working part time then tell them, and make sure they know who they can contact when they aren't available.
- **Consider costs of collaboration** – If there are two people working on the file, consider any costs of this collaboration (such as reading the file) and whether this will be paid for by the client or covered by the firm.
- **Flexibility works both ways** – When discussing the flexible arrangement, talk about the need for some flexibility from the employee in certain circumstances.
- **Identify clients' needs for flexibility** – Identify how you can meet clients' needs for greater flexibility. This could give your firm a competitive advantage.
- **Match client needs with your lawyers to use flexibility positively** – For example, if your client wants a flexible worker who is usually available at 7 pm, match them with a staff member working at this time.
- **Require information to be saved to server** – Require staff to immediately save all information on a file into the server so that information is readily accessible by other staff working on the same file.

Spotlight on Stacey Shortall, Partner at MinterEllisonRuddWatts

Stacey Shortall, one of the partners at MinterEllisonRuddWatts works full time but with some flexibility and doubts that her clients realise this as the work is still getting done. She believes the barriers to flexible working come less from the client's expectations and more from the law firm's expectations of face time (New Zealand Law Society, 2016).

Summary of Key Solutions

1. **Adopt policies for flexibility** – Develop a policy about flexibility, and a toolbox to assist managers implementing the policy. Create model templates about flexible work for employment policies and agreements.
2. **Create culture that promotes flexibility** – Promote realistic flexible work practices, and a healthy work-life balance! Limit the number of hours that employees should work per week, and encourage a life outside of work. Encourage flexibility of work at a senior level, and publicise your own case studies of successful senior staff who work flexibly.
3. **Recruit for flexibility** – Advertise positions to attract job candidates who are seeking flexible working options. For example, state whether you will consider job sharing, part time, and flexible hours.
4. **Communicate with staff** – Engage in robust discussions with staff before approving a request. Use technology (such as Skype and teleconferences) to keep communication lines open with your flexible employees. Agree upon communication preferences for supervision. Ensure flexible workers set out the times and days that they work on the intranet to clarify the hours that they are present in the office.
5. **Communicate with clients** – Provide them with more than one contact if your staff work flexible or part time hours. Identify their own needs for flexibility.
6. **Trial the flexible arrangement** – Before approving a request for flexibility, allow flexibility on an informal basis to consider whether the employee is suitable for more formal arrangements. Make formal arrangements subject to a review, by which date you can consider whether to make the arrangements permanent.
7. **Realistic expectations of flexible workers** – Ensure part time workers' billing targets are pro-rated to the number of days and hours that they work.
8. **Consider value and fixed fee billing** – Value output rather than input. Consider moving away from the traditional billable hours business model to fixed fee billing.
9. **Provide challenging work** – Make sure your flexible workers are challenged by the work that they are given. Consider requiring more than one staff member to work on a larger file or transaction.
10. **Training and networking opportunities** – Offer flexible workers the same or similar training opportunities, and consider holding training on a variety of days and times. Train managers to adopt a supportive flexible culture, and to deal with the challenges flexibility may bring.
11. **Career progression** – Provide your flexible workers similar opportunities for career progression. At partnership level, equity can be pro-rated in accordance with hours worked.
12. **Provide technology with security** – Ensure staff are provided remote access to emails and the server, and given all necessary equipment. Check security settings with the remote worker. Do not allow use of personal devices (such as USB flash drives) and consider paperless office training.

13. **Health and safety** – Ensure your workers are following your health and safety guidelines wherever and whenever they work. Assess their workspace at home (or at their remote location). Require them to record hours so you can monitor any overtime.
14. **Monitor and review** – Monitor record keeping, so you can check whether staff are working the required hours and meeting billing targets. Measure their performance and productivity. Consider whether you have greater productivity, performance, retention and gender diversity as a result of flexibility.

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