

The case for a more flexible workplace



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A SHIFT IN THE WAY THE LEGAL PROFESSION VIEWS FLEXIBLE WORK ARRANGEMENTS IS LONG OVERDUE ACCORDING TO RESEARCH.

Studies have repeatedly shown that employees who have access to flexible work arrangements tend to be more satisfied, committed and engaged with their work. While the legal profession has taken positive steps in this regard with some organisations offering lawyers the opportunity to job-share, work from home and work part time, it is yet to fully embrace the case for offering flexible work arrangements.

While flexible work arrangements have been successfully implemented in other professions, the law continues to lag behind. The delay is often attributed to the emphasis that the legal profession places on “face time” and some firms’ reluctance to let go of the billable hour.

This was confirmed by the National Attrition and Re-engagement Study (NARS, <http://tinyurl.com/lhlj4am>) published by the Law Council of Australia in March 2014, which identified the lack of flexible work arrangements as an important factor for women leaving the law. The results of the Australian Human Rights Commission’s Pregnancy and Return to Work National Review (AHRC Review <http://tinyurl.com/kn8uga3>), published in June 2014, also found that flexibility is often in an employer’s too hard basket and that harmful stereotypes about the flexible worker remain pervasive in Australian workplaces.

Face time

Lawyers do not need to be available, in the office, 24 hours a day to meet client needs and build client relationships. Research undertaken by Victorian Women Lawyers, in preparing their guide to managing lawyers with flexible work arrangements, has shown that maintaining positive client relationships is not generally a big challenge to flexible work arrangements. This is because clients tend to focus on the quality of the legal service provider, the cost and the overall result, rather than the

employment arrangement of the lawyer providing the service.

An example of a law firm that rejects the importance of face time is Hive Legal. At Hive Legal, lawyers are encouraged to work from whatever location suits them best. This can be at home or in the office. The only time that lawyers are required to attend the office is once a week for an all staff meeting. The firm’s managing director Jodie Baker has explained the rationale behind this approach as follows: “They are intelligent, experienced lawyers, they don’t need to be monitored . . . whether they work from home or the office, it does not change the quality of the outcome for the client.”

The widespread availability of technology is important in this regard. At Hive Legal, the use of computers, laptops, tablets and smart phones plays a significant role in helping lawyers collaborate, communicate and remain connected while working remotely.

Billable hours

The legal profession’s reluctance to get rid of the billable hour is seen as a deterrent to flexible work arrangements. This is because measuring a lawyer’s performance by the number of hours they bill tends to

disadvantage people who work flexibly. As pointed out in the AHRC Review: “The more you are available the more you add value . . . [A] person who is there just three days a week doesn’t get the juicy work because it’s easier to give that work to someone who can work around the clock, five days a week.”

The appropriateness and sustainability of the billable hour has been the subject of much criticism of late. In particular, the NARS called on the legal profession to explore alternative billing models in order to foster a more collaborative profession. By way of example, the NARS recommended that the legal profession consider billing models that reward lawyers not only for revenue generation, but also for time spent supervising or mentoring, developing precedents or participating in marketing activities.

The flexible worker stereotype

The limited availability of flexible work arrangements tends to disproportionately affect female lawyers, who are more likely to seek flexible work arrangements to juggle work and family commitments. It

is, however, a common misconception that the unavailability of flexible work arrangements is a concern limited to “working mums”. While this is undoubtedly an important group, there is a broader, growing number of lawyers who would like to better balance different aspects of their lives including work, family, post-graduate studies, volunteering and sport.

This is a trend that should be supported by employers, as former Australian Women Lawyers president Kate Ashmor has explained: “A full and varied life doesn’t mean someone is less ambitious or disloyal to their employer: in fact, it makes them a more interesting, happier and emotionally mature employee.”

Further, the Tristan Jepson Memorial Foundation has identified that balance between the demands of work and personal life is an important factor in ensuring that lawyers, particularly junior lawyers, are able to look after their mental health. The guidelines produced by the Foundation suggest that, in order for the legal profession to promote a healthy work environment, organisations should:

1. allow lawyers to reasonably meet the demands of personal life and work;

2. promote life-work balance;
3. encourage lawyers to talk to their supervisors when they are having trouble maintaining harmony; and
4. ensure that lawyers have energy left at the end of most workdays for their personal life.

Conclusion

Flexible work arrangements should be an available option for all lawyers and a shift in the way that the legal profession views such arrangements is long overdue. It would also be beneficial for the legal profession to consider implementing the recommendations made by the NARS and the AHRC Review.

In particular, it would be valuable for law firms, in-house legal teams, community legal centres and other legal service providers (and leaders within those organisations) to identify, and take steps to remove, practices that perpetuate harmful workplace stereotypes about flexible work arrangements. ■

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