



## **Submission to the Department of Children, Equality, Disability, Integration and Youth Affairs in response to its public consultation on Flexible Working**

**May 2021**

### **Introduction**

Dublin Chamber is the representative body for businesses of the Greater Dublin Area. Its membership spans the spectrum of businesses from SME to large MNC. We are pleased to make this submission to the Department of Children, Equality, Disability, Integration and Youth Affairs in response to its public consultation on Flexible Working. In the following paper, the business perspective on flexible working, obstacles to integrating flexible working, and impacts on female labour participation and pay gap will be outlined.

Dublin Chamber has long been an advocate for flexible working practices, having launched a *Smarter Working Guide* to encourage and enable businesses to integrate flexible working, where possible, in April 2020.<sup>1</sup> The Chamber made a submission in response to the public consultation on Remote Working held in August 2020 in strong support of flexible working practices as a more rounded approach to the future of work. The Chamber also made submissions in response to the public consultations on the Right to Disconnect and on the Right to Request remote work.<sup>2</sup>

Dublin Chamber has been actively gathering qualitative and quantitative data on business sentiment in relation to flexible and remote working through surveying and focus group sessions over the past year and have shared this data with the relevant policymakers.<sup>3</sup> We encourage the Department of Children, Equality, Disability, Integration and Youth Affairs to engage with other Government Departments, and particularly with the Department for Enterprise, Trade and Employment, as there has been significant research and consultation conducted in this space and a coordinated approach would be beneficial for national policy.

Dublin Chamber has long advocated that remote working is just one aspect of flexible working and advocated that flexible working should be promoted nationally more so than

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<sup>1</sup> Dublin Chamber Smarter Working Guide <https://www.dublinchamber.ie/getattachment/Business-Agenda/Smarter-Working-Guide/Dublin-Chamber-Smarter-Working-Guide.pdf?lang=en-IE>

<sup>2</sup> Remote Working Submission to DETE <https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber-Submission-on-Remote-Working-Consultation-to-the-Department-of-Business.pdf>

Right to Disconnect Submission to WRC [https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/DubCham\\_Right-to-Disconnect-Submission-to-WRC\\_January-2021\\_FINAL.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/DubCham_Right-to-Disconnect-Submission-to-WRC_January-2021_FINAL.pdf)

Right to Request Submission to DETE [https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber\\_Right-to-Request-Submission-to-DETE\\_May-2021.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber_Right-to-Request-Submission-to-DETE_May-2021.pdf)

<sup>3</sup> Dublin Chamber Qualitative and Quantitative Data on Flexible and Remote Working [https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber\\_Remote-and-Flexible-Working\\_Quantitative-and-Qualitative-Data\\_April-2021\\_FINAL.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber_Remote-and-Flexible-Working_Quantitative-and-Qualitative-Data_April-2021_FINAL.pdf)

remote working. As a more broadly encompassing set of practices, flexible working lends itself more positively to goals of improving work-life balance for all and offers greater scope for more businesses to offer some element of flexibility to staff, even if remote working is not the ideal option.

Dublin Chamber employer feedback gathered through extensive surveying and focus groups clearly indicates that the future of work will be a hybrid model of working with a number of days spent in the office and a number working remotely from home or elsewhere. This hybrid model reflects the employer and employee experience and perspective that the office is an important working environment to support collaboration, communication, social engagement, and operations.

### **Current Flexible Working Options**

Current flexible working options can include compressed hours, job sharing, core working hours with flexible beginning and ending points to the day, and remote working, among others. Dublin Chamber outlines in its *Smarter Working Guide* how such options can be utilised in businesses to enable better work life balance for employees, and in doing so, aid in recruitment and retention of key talent.

There is a focus by national Government on remote working policy over broader flexible working; this is clear from the launch of the National Remote Work Strategy in January 2021. Dublin Chamber argues that remote working as one option under the umbrella of flexible working is more appropriate in efforts to achieve a more diverse and inclusive workplace and to achieve improved female participation rates and work life balance across the board. Under the EU Directive on Work Life Balance, Ireland must work towards enabling greater flexibility for parents, specifically for those caring for children aged 12 and under, and flexible working can significantly contribute to this goal.

Flexible working supports greater work life balance because it offers a number of options outside of remote working and is inherently more flexible as working remotely can become a rigid construct in terms of time and location if legislation becomes overly restrictive and if health and safety guidelines, HR burdens, and liability for the employer is too onerous.

### **Impact of Pandemic on Flexible Working**

Dublin Chamber data shows that attitudes have changed in relation to flexible and remote working as a result of the pandemic experience.

In March of 2020, Dublin Chamber surveyed members on the impact of Covid-19 on their businesses. Surveys carried out between 9th and 25th March showed the rapid progression of remote working among businesses. In our initial survey we asked businesses how prepared they were to implement remote/flexible working at short notice. Over 70% of businesses had a plan in place and just over 16% were in the process of putting a plan in place. Two weeks later, the vast majority of companies (93.5%) had implemented remote working to some degree, with two thirds of businesses working almost entirely remotely. Just one company reported that it was still working on implementing remote working, while about 5% reported that it was not possible for their business. By the time of our Q2 2020 Business Outlook Survey the unforeseen acceleration of flexible working practices had caused many businesses that would not otherwise have considered remote working to consider incorporating it as a long-term policy. Over 41% of businesses that had newly implemented

remote working in response to the lockdown now intended to implement a remote working policy post crisis. Only 9% of respondents who were remote working indicated that they would not continue to do so post-crisis.

In the Q4 2020 Dublin Chamber Business Outlook Survey, we asked a further series of questions relating to remote working and its impacts, and it was apparent that the intention to continue new working practices in the long run had strengthened. As of Q4 2020, 81% of companies have plans to enable increased remote or flexible working post Covid-19. Of that cohort, two thirds were new to remote or flexible working and had only implemented these policies in response to the Covid-19 crisis. Only one in eight respondents who were implementing remote working indicated that they have no plans to enable increased remote or flexible working after the crisis, and just under half of these indicated they will reverse all changes caused by Covid-19.<sup>4</sup>

The digitalisation of the economy that took place over the course of the pandemic was a significant acceleration which has added to the enablement of flexible working but also to a need for upskilling. Similarly, the impact of the pandemic has shown a need for increased and shifting HR and management skills, with HR professionals reporting that handling flexible and remote working is a key concern.<sup>5</sup> Among Dublin Chamber members, the future of work as a flexible construct is a source of concern as there is an increased and changed need for administrative and HR skills.<sup>6</sup> In a Dublin Chamber Q1 2021 survey of over 300 members, two in five survey respondents (40%) reported that their staff require upskilling. More than one in four (26%) indicated that the current Covid-19 crisis brought this need for upskilling to light.<sup>7</sup>

In focus group sessions with business leaders from across the spectrum of size and sector, feedback showed that there had been a shift in mindset from employers around the ability of a workforce to maintain productivity in a more flexible working construct. However, in focus groups dedicated to considering female labour participation, while participants were hopeful that the shift towards flexible working practices would be maintained long term and indicated a shift in their business's perception of flexible working and productivity for the better, there was serious concern that flexible working options would result in a divide between working mothers and their male counterparts specifically. Focus group participants voiced concern that unless leadership and management encouraged the take up of flexible working across the board, it would become seen as the 'mothers' option and that this would contribute to female labour drop off and/or stalled career progression among women.

### **Impact on Prioritisation of Work-Life Balance**

As outlined, the Covid-19 pandemic has resulted in rapidly evolving attitudes in relation to flexible working patterns. Dublin Chamber focus group data indicates that employers are

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<sup>4</sup> Dublin Chamber Qualitative and Quantitative Data on Flexible and Remote Work [https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber\\_Remote-and-Flexible-Working\\_Quantitative-and-Qualitative-Data\\_April-2021\\_FINAL.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber_Remote-and-Flexible-Working_Quantitative-and-Qualitative-Data_April-2021_FINAL.pdf)

<sup>5</sup> Byrne Wallace Employment Law Survey May 2021 <https://byrnewallace.com/news-and-recent-work/employment-law-survey.html>

<sup>6</sup> Dublin Chamber Qualitative and Quantitative Data on Flexible and Remote Work [https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber\\_Remote-and-Flexible-Working\\_Quantitative-and-Qualitative-Data\\_April-2021\\_FINAL.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber_Remote-and-Flexible-Working_Quantitative-and-Qualitative-Data_April-2021_FINAL.pdf)

<sup>7</sup> Dublin Chamber Business Outlook Survey Q1 2021 [https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dub-Chamber\\_survey-report\\_Q1\\_v3\\_2.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dub-Chamber_survey-report_Q1_v3_2.pdf)

now reassured that productivity can be maintained and thrive in flexible working and remote working arrangements, caveated with the observation that fully remote working is generally unsuitable as it is not conducive to team building, collaboration, and well-being. Employers and employees have both observed that work-life balance can be better achieved in a more flexible future of work.<sup>8</sup>

While flexible working has the potential to have a very positive impact on work-life balance, it cannot be viewed as the panacea to the challenges of childcare access and affordability. While affording employees greater flexibility around the hours worked and encouraging achievement of KPIs being reached over hours worked is positive, working parents still require childcare in order to achieve work life balance and to prevent a retreat from the workplace by women with caring duties.

There is strong international indication that the periods of lockdown may have a long-term impact on female participation rates. Much of this reflects a resurgence in traditional unpaid labour and caring duties inequality.<sup>9</sup> The UN, as well as a number of international studies, have highlighted that during various countries' periods of economic and social lockdown, women have shouldered the brunt of home and caring duties. In fact, the UN states that globally, women work three times as many hours as men in unpaid care and domestic duties.<sup>10</sup> Meanwhile, the European Institute for Gender Equality shows that pre-Covid, Irish women spent more time in unpaid care and domestic duties than men.<sup>11</sup>

Dublin Chamber focus group data indicates that there are real concerns around the impact of an unbalanced take up of long-term remote working contributing to the gender pay gap and adversely impacting upon female advancement in the workplace. In August 2020 focus groups on the impact of Covid-19 on female labour market participation, a number of concerns were vocalised by Chamber members from across the spectrum of sectors and business size around the potential for a negative impact of remote working should it be considered as an answer to childcare issues. However, participants were also broadly very supportive of the positive effects that remote and flexible working practices can have on female labour participation and advancement should the appropriate steps be taken to ensure that these options are not left solely to women with caring duties. It was noted that senior management in a business must lead by example to promote even take-up of flexible options and that remote working cannot be viewed as the answer to childcare.

Focus groups held in January 2021 also reflected the concern around female career progression and visibility. Concern around childcare post-pandemic was also raised in the context of employee privacy. Employers will want assurances that a home-working employee has adequate childcare; however, it may not seem reasonable to question this with an employee outside of the exceptional circumstances of the Covid-19 lockdown.

It is essential that with a national promotion of flexible working that there is improved access and affordability of childcare, and that senior management is afforded a level of guidance

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<sup>8</sup> Dublin Chamber Qualitative and Quantitative Data

[https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber\\_Remote-and-Flexible-Working\\_Quantitative-and-Qualitative-Data\\_April-2021\\_FINAL.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/Dublin-Chamber_Remote-and-Flexible-Working_Quantitative-and-Qualitative-Data_April-2021_FINAL.pdf)

<sup>9</sup> The Atlantic <https://www.theatlantic.com/international/archive/2020/05/france-women-workplace-coronavirus-pandemic/612136/>

<sup>10</sup> 7 European Institute for Gender Equality <https://eige.europa.eu/gender-equality-index/2019/domain/time/IE>

<sup>11</sup> UN The Impact of Covid-19 on Women

<https://www.unwomen.org/en/digitalibrary/publications/2020/04/policy-brief-the-impact-of-covid-19-on-women>, p.13

and training on implementing flexible work practices in such a way that will not create a divide among those that work flexibly and those that do not.

### **Obstacles to Flexible Working for Businesses**

The Covid-19 pandemic caused an overnight change in the way people work. For those able to work from home, through necessity many had to work more flexibly to accommodate childcare and other caring duties. During this time, an attitude shift was seen among employers as they saw that tasks could be achieved in a remote and a more flexible work environment. However, there are several obstacles to implementation of flexible working long-term, some of which are arising in debate more strongly now than pre-pandemic due to the increased legislative movement in the remote working space.

Dublin Chamber outlined in its submission to the WRC in relation to the Right to Disconnect that rigid rules and legislation around such a right may in fact be counterproductive for supporting flexible working practices as it may force employers to become more rigid around beginning and ending times of the working day. During the Covid-19 pandemic, many employers made allowances for employees so that they could attend to caring duties under the agreement that they fit work commitments and deadlines in around such duties. In the future, flexible work practices may enable parents to create working hours that allow for example, a parent to take an extended break in the day and to pick up work later in the evening. This type of arrangement may cause apprehension for an employer in respect of the Right to Disconnect.<sup>12</sup>

Similarly, the Organisation of Working Time Act (1997) may prove an obstacle to flexible working. Many with caring responsibilities can benefit from flexible working practices by, for example, moving some working hours to later in the evening to suit a child's timetable. However, if an employer wishes to stay strictly in adherence to the Organisation of Working Time Act (1997), there may be concern around ability to monitor adequate rest breaks and work breaks in a flexible and remote working environment. This may be even more the case for an SME that will have less of a HR capacity.

Under a Right to Request, as has been committed to in the National Remote Work Strategy, there is also potential to limit real flexible working should an employee be fixed to one remote work-station and required to stay within rigid working hours.

Dublin Chamber data collected over the course of the past year through surveying and focus groups provides considerable detail in relation to the future of flexible work. This collected data indicates strong support from employers in relation to flexible and remote working, while also highlighting an array of obstacles, legislative uncertainty, and potential unintended consequences should the necessary policy, training, and funding supports fail to be put in place. The key challenges facing flexible and remote working are:

- Skills needs for a changing world of work - Skills and training for HR and management is needed. Flexible and remote working practices mean that teams need to be managed in a new way with changed communications requirements to ensure that business operations and productivity are retained and employee well-being is supported, to ensure equality of opportunity, and to ensure compliance with the relevant employment legislation and GDPR requirements. Skills are also needed for digitisation as there is an

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<sup>12</sup> Dublin Chamber Submission on the Right to Disconnect  
[https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/DubCham\\_Right-to-Disconnect-Submission-to-WRC\\_January-2021\\_FINAL.pdf](https://www.dublinchamber.ie/DublinChamberofCommerce/media/banners/DubCham_Right-to-Disconnect-Submission-to-WRC_January-2021_FINAL.pdf)

increased use of digital platforms in a flexible working scenario that utilises remote working.

- Increased administrative burden - Businesses are facing an increased administrative burden to handle requests under a Right to Request remote working and in relation to a Right to Disconnect. This burden is a new drain on business resources.
- The evolving legislative landscape causing uncertainty - For instance, the interpretation of the Right to Disconnect by cautious employers could possibly have a negative impact on flexible working practices in businesses. Dublin Chamber outlined in its submission in response to the Workplace Relations Commission that the Right to Disconnect may cause an impediment to true flexibility whereby an employer becomes wary of any negative consequences of allowing an employee to work hours outside of a version of the 9am – 5pm construct.
- Concerns around health and safety of employees when working outside of the office setting remain an issue for employers across the board.
- Operational considerations – Employers must retain the ability to meet all the operational requirements of the business, and this includes a need for employees to be present in the workplace.
- The demands of conducting business internationally - The global nature of Irish business needs to be allowed for in any flexible working policy. For example, Dublin is home to many internationally trading businesses and is an attractive FDI location with many of the biggest names holding a significant presence. Flexibility must remain to conduct business with different time-zones.

### **Recommended Success Factors**

To make flexible working successful in the Irish context, Dublin Chamber recommends:

- Direct national policy toward promoting flexible working as a more broad and inclusive approach instead of just remote working
- Review the Organisation of Working Time Act (1997) in recognition of the evolution of the modern work week away from the traditional '9am to 5pm' in favour of greater flexibility for work-life balance
- Provide access to training and upskilling in support of evolving HR, health and safety, wellbeing, and management skills necessary for a flexible workplace
- Provide access to affordable childcare
- Introduce financial support for remote working practices
- Ensure that remote working legislation is not overly restrictive

### **Conclusion**

Flexible working is a broad term and encompasses a suite of ways in which to improve the work-life balance of employees. The Covid-19 pandemic and lockdown experiences have accelerated attitudes to the contribution that flexible working can make to work-life balance and has reassured employers that productivity can be maintained. A broader national strategy on flexible working would be more widely beneficial than the current focus on remote working.

For a Government strategy in support of flexible working to be suitably impactful in creating greater work life balance and equality of opportunity, access to affordable childcare must be

addressed. Training and management skills in support of the effective implementation of flexible working are also required in order to ensure equality of opportunity and to avoid unintended consequences on female labour participation and career progression.

Dublin Chamber has made significant engagements with Government over the past 14 months in relation to flexible and remote working, including through public consultations in relation to the Right to Disconnect and the Right to Request in 2021 and the Remote Working consultation in late 2020. Additionally, we have circulated to policymakers a set of research detailing data on flexible and remote working from the business community.

DETE launched a National Remote Work Strategy in early 2021; it would have been preferable to have a national flexible working strategy that included the objectives as set by DCEDIYA in this consultation. Dublin Chamber recommends that Government departments, including DCEDIYA and DETE, work on a coordinated approach to supporting flexible working practices that encompasses the intricacies of striving for greater work-life balance, female labour participation and equality of opportunity, and a system that is conducive to business operations and economic growth.