

Broad perspective, common sense, needed in 'return to office' working

ANDY PRENDERGAST

Vaccinations, managing remote working demands and staff retention are amongst some of the key considerations in the context of the expected increase in return to office working, later this month. While workers were already returning to offices, an adaptive and considerate approach to handling clashes over the preferred place of work will be needed.

Earlier this week, the Government has unveiled its new roadmap for the lifting of remaining Covid-19 restrictions on the public, with September 20 the date given as the 'return to the workplace.'

The phrasing 'return to the workplace' is in itself something of a misnomer, as the hundreds of thousands of employees who shifted to home and remote work during the pandemic have remained working, just at a different location.

Can employers make distinctions about who they want back in the office?

The social partner response has been broadly welcoming of the new Government roadmap to unwind remaining pandemic restrictions, with some assurances and guidance still sought by both sides.

Employer body, Ibec, welcomed the Government's timeline for a phased and safe return to offices, while the Irish Congress of Trade Unions (ICTU) emphasised the safe return to the workplace "must be a top priority" for Government plans on the lifting of Covid 19 restrictions and reopening the wider economy.

The Fórsa trade union said the return to office workplaces should build "on the positive pandemic experience of remote or 'blended' working" and that remote working "had largely sustained or increased productivity throughout the pandemic, while bringing wider benefits to employers, workers and society."

VACCINATION QUESTION

Across media and social commentary there has been some degree of conflation of requiring an employee to be vaccinated and asking whether they are vaccinated. An employer cannot demand an employee to be vaccinated, but may enquire as to whether an employee is vaccinated or not; however, the requirements to make such an enquiry permissible under GDPR are so burdensome that most employers are likely to avoid this scenario.

There remains no legal mandate for employees to be vaccinated and such is unlikely to happen, especially in light of Article 40 rights under Irish Constitution. ICTU, in a letter to An Taoiseach last week, stated its ongoing agreement with the Government's non-mandatory approach on this matter.

ICTU general secretary, Patricia King, said that "while some workplace conflict can be expected on this subject it is our view that such exigencies should be managed within an overall framework agreement with the employer side."

It is clear that a non-legal approach to dealing with the vaccination question is preferred in general, and, given the highly successful vaccination rate amongst the adult population in Ireland, a vaccination quandary in the office setting is, perhaps, less likely to occur as some commentary would suggest.

While there has been regular mention of the potential for religious discrimination claims around the vaccine, such claims are also unlikely. The reality is that no mainstream religion prohibits vaccinations but, nevertheless, that would not prevent an individual making their own claim on the religious ground.

ALREADY HAPPENING

The government has said it is an Autumn priority to introduce new legislation that will give employees a 'right to request' remote work, following a stakeholder consultation earlier this year (see [IRN 30/2021](#)). Since 2020 it has been clear that having the option of blended working (a mix of office and remote working, for those who can work remotely) is the favoured option.

By setting a date of September 20, 2021, it does, however, create a gap period from that date to when the planned right to request remote work will be in operation; this in-between period could present more 'place of work' disputes. The target date could, for example, bring any unresolved or lingering place of work issues to a head.

Yet, the reality is that in many organisations where employers have wanted staff back in the office, full or part-time, this return to the office has already occurred, and was largely happening once internal travel restrictions were lifted, with staff rotation at the office safely utilised in many workplaces.

Another perspective is that employees who will be returning to the office on or around September 20, they will expect to return to an office space that is fully compliant with Covid prevention guidelines, and for most offices, even having the majority of staff back in the office at one time will be hard to achieve, in the context of physical distancing.

Similar to the wariness around discrimination on the vaccination question, there are also hazards for employers to navigate when making distinctions on which cohorts of staff they want returned to the office.

For example, an employer cannot say they need younger workers back in office; rather if there is a need is to embed new recruits in the organisation it could be along the lines of length of service, but with a clear reasoning as to this need, so as to offset disputes.

This is all in the context of wanting to keep staff content and productive.

OFFICE ECONOMY

There is also the agenda of getting people back to offices to re-establish the 'office economy', on which many employers in hospitality and other services are dependent on.

Yet, there is an inherent conflict for decision-makers between the two agendas of facilitating remote working and revitalising the office economy. There will be a need to retain a considerable amount of remote working into the future, to achieve lasting benefits, such as lower vehicle emissions from less commuting.

Employer group, Ibec, is eager to have employees return to offices, for two reasons: to help the Experience Economy (hospitality, cafes, retail, tourism, etc.) and to re-establish office working, which indicates it has not been plain sailing for its members whose staff have been out of the office since the pandemic began.

Significantly, Ibec noted that it "has become apparent over the past number of months, full remote working has many associated disadvantages for both employers and employees, particularly around organisational connectivity and innovation." (IRN emphasis)

Danny McCoy, Ibec CEO, said that most businesses have been planning for a phased and gradual return for colleagues for the opportunity "to meet, innovate, and collaborate in person."

Government policy, he added, "is now aligned with this business imperative and businesses have the autonomy to determine with their stakeholders not just the 'what' and 'how' to return to new patterns of activity but, also the 'when' to do so."

The group also recognises that the "next challenge is to address office logistics, social distancing, and other control measures, as well as consistency in managing close contacts."

SAFETY PARAMOUNT

ICTU general secretary Patricia King said, "it is imperative that employers adhere to the updated provisions set out by the Health and Safety Authority and which are included in the National Return to Work Safely Protocol."

These measures include adequate ventilation systems, including access to fresh air, to reduce the risk of aerosol transmission indoors in situations where workers may be in close contact for long periods of time and working in poorly ventilated areas.

Good ventilation is an “essential component of a hierarchy of risk controls that also includes other prevention measures, such as vaccinations, physical distancing, cleaning, mask-wearing, good hand, and respiratory hygiene”, Ms King said.

Congress also draws attention to the use of flexible and staggered work arrangements - including ‘Blended Work’ models – and that such “will be critical in ensuring compliance with these health and safety measures to keep workers safe.”

In June of this year, the CIPD published a guide for employers to manage employees returning to the office workplace. It notes that managers should be cognisant of personal challenges of employees, adapting to a return to office life, and that showing care, kindness and wellbeing “will be key success factors.”

The guide also notes that future blended working patterns “need to be based on customer, team and organisational needs, not just an individual’s preference” and that a period of trial and testing “should be introduced, then reviewed, and trialled again, as flexibility and a change of work patterns will emerge. Individuals will change their mind, will realise that what looked like the best option from afar is not working out in practice.”

SOCIAL PARTNER DIALOGUE

On the announcement of the new reopening roadmap, Fórsa’s head of communications, Bernard Harbor, said that Government and employer representatives should “maintain consultation with unions about a safe return to workplaces based on the health and safety measures set out in a ‘Return to Work Safely Protocol’.”

The protocol, he added, “has worked well and it should continue to ensure that all working environments are safe and compliant with measures necessary to contain the virus and keep workers and others safe. Its requirement that employers consult with worker representatives will continue to be an important safeguard as individual employments plan a phased and safe return to the workplace.”

ICTU has also noted to An Taoiseach that there have been “many positive aspects to a ‘Working from Home’ blended model” and that consideration be given “to introducing ongoing advice to employers to operate [blended working], on a voluntary basis, for the coming months”, which “would assist those workers who will need to readjust their care arrangements [and] will also reduce the pressure on public transport facilities and furthermore will contribute positively to the compliance with social distancing and ventilation measures.”

BUSY TIME FOR HR

Returning staff to offices will certainly add more to the plate for HR managers, as they juggle a variety of competing demands. They will need to take an adaptive approach, which will be time consuming, but the alternative of letting disputes emerge should be enough encouragement.

The pandemic has also inspired change in the priorities of some employees, with an increase in paid leave now more of a desired employment benefit. So, for employers who expect flexibility from their staff, the same standard will be expected in return with requests to work from a preferred location that may not be aligned with management's original plans.

High-skilled workers now have more leverage than before, where, in a competitive labour market, they can use full or partial remote working as a 'red line' demand, and where employers might be compelled to acquiesce to such a demand.

The pandemic has also inspired many workers, globally, to re-evaluate where they stand with their job and career, with anecdotal accounts of increased job churn, dubbed The Great Resignation.

The University of Limerick Kemmy School of Business has found that 40% of surveyed workers believe their future lies away from their current employer. Drs Sarah Kiernan and Deirdre O'Shea note that it will take time to re-organise workplaces and work cultures, in the context of employees re-evaluating what they want from their jobs, but if that time is not afforded there may be a tendency to just revert back to the pre-pandemic workplace.

JUDGEMENT AND RESPONSIBILITY

The date of September 20 is a guide for a return to the office workplace, for those who have not done so already; it would be sensible not to see it as a mandatory date for returning to the office.

Potential place of work disputes can be avoided through common sense and reasonable conversations between employers and employees.

Such conversations are best started with both sides taking stock of what has occurred in their home and working lives over the past 18 months; how the switch to home work has impacted individual and organisational performance and, in light of that, what both sides seek going forward. Hard and fast demands will only lead to resentment and dispute.

Announcing the new roadmap for the lifting of remaining restrictions, earlier this week, An Taoiseach Micheál Martin said the approach to dealing with Covid will now be "primarily defined by public health advice, personal behaviour, judgement and responsibility" – the latter two nouns might be most pertinent when changes to the place of work emerge over the coming weeks and months.