

Remote working consultation shows common ground as new law nears

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The results of a departmental consultation on remote work point to patterns of how a right to request remote working might function, such as a one-month notice period for changing or withdrawing a remote working arrangement.

The Department of Enterprise, Trade and Employment has released the results of a consultation it ran earlier this year, collating responses from 175 respondents – a mix of individuals, employers, representative associations and trade unions.

It shows that some common ground can be achieved between employers and employees, but that more guidance will be needed around certain aspects of remote working – with a clear concern amongst employers about running risk assessments of an employee's proposed remote workplace.

The government is currently in the process of legislating for a 'right to request' remote work. The Department notes that, currently, all employees can ask their employers for the right to work remotely, but there is no legal framework around which a request can be made and how it should be dealt with by the employer.

The forthcoming legislation "will set out clearly how these requests should be facilitated as far as possible."

Releasing the results of the consultation, Tánaiste and Minister for Enterprise Leo Varadkar, said: "We have a real opportunity now to make remote and blended working a much bigger part of normal working life. Introducing a right to request remote working will set out a clear framework to facilitate remote and blended work options, in so far as possible."

"It will ensure that when an employer declines a request, there are stated reasons for doing so and conversations with workers are taking place in a structured way. We recognise that remote working won't work for everyone or for every organisation, so the Government will take a balanced approach with the new legislation."

The new legislation "will be a priority in the new Dáil term", he added.

CONSULTATION FINDINGS

Nearly two-thirds of respondents said a one-month timeframe should apply for an employer to decide on an employee's request to work remotely. A longer timeframe could lead to "unwanted resignations" according to one employee respondent, while some employers prefer a minimum of two months to decide on such a request.

A one-month time frame is also the lead choice as a length of a notice period to change or withdraw from a remote working arrangement.

Having service of one year was the most favoured option for when an employee can submit a request to work remotely, but one-quarter of respondents said no minimum service should apply. Employee respondents commented that a remote working should be discussed with the (potential) employer at the beginning.

Employers generally favour a minimum period of service to ensure the employee "has adequate opportunity to integrate properly into a business and create the necessary collegial relationships as well as obtain a strong understanding of an organisation's culture."

A clear majority say a hybrid working policy is acceptable, while there is also consensus that an employer should bear the cost of a remote working arrangement, with a preference for a government grant or tax incentive (similar to the Bike to Work scheme).

Employee respondents agreed that an employer should be able to monitor a remote working employee's work activity, but to the same extent as what applies in an office environment. Employers are looking for further guidance in this area.

RISK ASSESSMENTS

The consultation shows a patent concern amongst employers about risk assessments of a remote workplace.

Employers said legislative change "will be necessary to ensure that both employers and employees have a clear understanding as to their responsibilities, rights and duties under the Safety, Health and Welfare at Work Act, 2005 (the 2005 Act)", which would extend to providing employers "with a legislative basis to conduct remote workplace risk assessments."

Another employer said risk assessments causes issues for smaller employers, as they "would probably have to hire somebody to do this on their behalf and then if they have to provide additional equipment the costs may be an issue for employers."