

Consultation deficit at the root of Social Protection hybrid working row

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Last week's ructions over changes to the number of office days for Social Protection workers were primarily the result of the normal industrial relations channel not being utilised – before a decision was made. It also demonstrates that changes to hybrid working by employers will compel an expectation for evidence.

While attempts have been made to mark the row that emerged between the Department and Social Protection (DSP) and the Fórsa trade union as part of a broader move to bring public and civil servants back to more office-based working – whilst referencing developments in the USA on the same topic – the flare up between the two sides is down to the fact that the changes in hybrid/"blended" working had not been agreed.

It is also the case that the planned change in blended working at the DSP, first indicated last November, did not involve sharing of analytics to demonstrate why DSP workers should be working more days in the office.

Changes to blended working would impact around 1,500 employees

In July 2024, the Department of Public Expenditure & Reform (DPER) sent out an evaluation model to be used for blended working in the Civil Service, outlining how an assessment and analysis of blended working could be carried out in consideration of organisational needs and employee needs.

On 5 November last year, DSP sent out a HR circular regarding its intent to require employees below principal officer (PO) level to have a minimum of two days per week in the office, and those at PO and above (represented by the AHCPs) a minimum of three days in the office.

The reason given for the change was to "facilitate increased collaboration, knowledge sharing, organisation learning and the provision of support to staff".

It is understood that the planned updates to the blended working policy would have impacted around 1,500 DSP employees, had the measure gone ahead this week. Around 40% of DSP employees currently work full time in the office.

Fórsa, which represents most of the workers within scope of the changes, said that no prior consultation or discussion took place with the union on this matter before the change was pursued by the Department.

This lack of engagement, it said, was "in clear breach" of the Framework Agreement on Blended/Remote Working 2022, "and also is in clear breach of the Public Service Agreement 2024 to 2026."

NEW WAYS OF WORKING

The framework agreement, published in 2022, was welcomed by some at the time but it was also criticised for lacking ambition. There is no uniform 'days in days out' ratio rule in practice across the public and civil service; a natural outcome given the range of roles and job types encompassed. For example, some workers in Revenue can work fully remotely because the jobs they do can be worked quite efficiently from home.

Clause 6.1 of the 2022 Framework states that the blended Working Policy Framework “will be reviewed on an ongoing basis in consultation with the employee representative bodies to adapt to any changes required to meet the needs of the business and employees and to incorporate any broader strategies, legislative changes and approaches to new ways of working.”

Fórsa said that at a meeting on 27 January, when it asked DSP about the type of analytics which were used in its review of blended working, the Department said that no such analytics were used.

The union said also that the Department indicated it did not see any requirement to consult with trade unions on the blended working alterations.

The matter was then raised at the Civil Service Industrial Relations Forum on 29 January, which involves DPER. At that meeting DPER “reaffirmed” that in cases where Blended Working Policies are being reviewed, “consultation and engagement must take place” with trade unions as provided for in the Framework Agreement and it re-iterated that it had provided Departments with an Evaluation Model.

On 30 January, Fórsa instructed its members to continue to work their current hybrid working arrangements. Fórsa’s Deputy General Secretary, Éamonn Donnelly said the department had acted unilaterally and had failed to honour the terms of the 2022 Blended Working Policy Framework, which provides for an ongoing review of blended working arrangements.

He added: “By forcing people to attend for an additional day each week, with no evidence to support a business case for this, management are just dumping an arbitrary obligation on staff.”

FORMAL DISPUTE PROCESS

The Department told IRN that it developed a new blended working policy and “shared it” with the unions last November. It said it also “engaged with the unions on a number of occasions since then and made some revisions to the policy based on the unions’ input.”

The DSP policy was to take effect this week “however, the unions advised late on Thursday [30 January] that they would now be directing non-co-operation by its members.”

DSP now says that it is “pleased that the union has, at our request, agreed to enter a formal dispute resolution process and [it] will hold off on the implementation of the new policy pending the outcome of this process”.

In its circular of last November, DSP noted that the blended working policy had to be updated to reflect the 2024 Code of Practice on remote and flexible working.

It advised that the main eligibility criteria for blended working were “meeting business needs, individual and role suitability, health and safety and availability of broadband.”

INDUSTRIAL MUSCLE

The attempts by some commentators to draw similarities between what’s happening with federal workers in the USA, being ordered back to the office full time by President Trump, and what the DSP was seeking to implement, are contrived.

For one, the changes signalled by the DSP were sent via circular on 5 November 2024 – before Trump was declared the winner of the US presidential election and months before his order to have federal workers return to the office full time.

As with other hybrid or remote working arrangements that have built up over the last five years, if there is a move to revert to more office hours, it can impact workers who have changed their living and/or care arrangements due to the availability of hybrid or remote working (i.e. someone has moved further away from their office location).

At the same rate, it is naturally the prerogative of employers to seek their staff to be in the office more if it is the case that the hybrid working system is not resulting in satisfactory productivity.

The return-to-office mandates reported to have taken place at some organisations, such as the high profile tech companies, are in a different bracket to the civil service.

While hybrid or remote working for workers whose skills sets are in demand might be more achievable in a tight labour market, that leverage can slip if the labour/skills demand starts to wane.

Moreover, the vast majority of private sector workers for whom hybrid working is possible are not unionised, and they do not have the same industrial muscle as public and civil servants.

AWARENESS OF PRECEDENT

Fórsa General Secretary, Kevin Callinan, responding to the new Programme for Government, said remote working is now a well-established fact of working life for many across the public and civil service, while global research suggests productivity remains strong.

“Remote working plays a very significant role in helping workers to strike a decent balance between work and home responsibilities, including caregiving, in addition to helping ease pressure on transport infrastructure and emissions reduction”, he said.

He also said that the debate in Ireland “has, so far, been more measured” than in the USA and the UK, and that there “is no need for an arbitrary full-time return to the office in those circumstances”.

It is a reasonable expectation of public sector unions that alterations in hybrid working arrangements would require consultation and an evidence-based approach to support the changes deemed necessary.

Public and civil service unions would be considered remiss in their duty representing the interests of their members if they were to accede to changes in one department, in the absence of consultation and evidence, knowing the precedent it would set.

On the face of it, requiring two days in the office per week (and three days for managerial grades) would not appear an unreasonable ask. But in the IR reality of the public and civil service, the key aspect is the manner in how such a requirement is brought into play.