

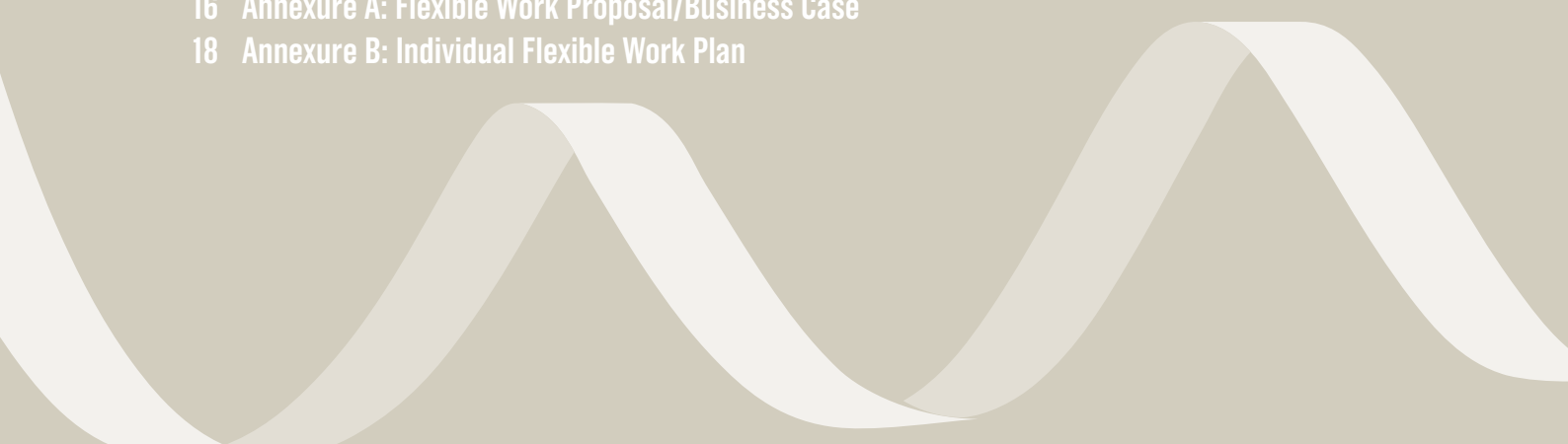


THE LAW SOCIETY
OF NEW SOUTH WALES

FLEXIBLE WORKING

A more flexible, more diverse profession at all levels

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Disclaimer: This document has been produced solely for solicitors and law practices to provide general information about flexible working. It is a general guide only and is not exhaustive of issues which may be encountered. While every care has been taken in the production of this document, no legal responsibility or liability is accepted, warranted or implied by the authors or the Law Society of New South Wales and any liability is hereby expressly disclaimed.

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FOREWORD



The Law Society of NSW is working hard to implement the recommendations in our 2011 report *Advancement of Women in the Profession*. During roundtable discussions, Law Society members told us that the availability of flexible working arrangements is a key area in which impediments to the advancement of women continue to exist. While most employers have policies for flexible working, difficulties were experienced in translating those policies into appropriate workplace arrangements. This and other research confirms that solicitors and law practices need practical tools to turn good intentions into effective reality. The Law Society believes we can facilitate this process by publishing information on different types of flexible working and their value, as well as providing tips on developing suitable arrangements.

As President of the Law Society in 2012, I have been committed to the implementation of the recommendations intended to facilitate the advancement and retention of women in our profession. We have already launched a new mentoring program for women with 10-15 years post admission experience and will shortly be publishing further research on senior legal appointments. We continue to promote discussion through our Thought Leadership events and have developed networking skills sessions in conjunction with the Women Lawyers Association of NSW. A progress report on implementation and updated statistics will be published in June 2013 followed by an evaluation at the end of 2014. In the meantime, I encourage those who are unfamiliar with the report to access it at www.lawsociety.com.au/advancementofwomen.

I hope this new resource will be of assistance to practitioners seeking flexible working arrangements and law practices wishing to support their staff while capitalising on the benefits of offering flexibility. I would like to thank all the Law Society staff who contributed to this publication, in particular, Heather Moore, Manager of the Law Society's Policy and Practice Department.

A handwritten signature in black ink, appearing to read 'Justin Dowd'.

Justin Dowd

President of the Law Society of NSW
November 2012

INTRODUCTION

Despite the obvious success of women in all sectors of legal practice, there is wide recognition that barriers or impediments to the advancement of women in the profession continue to exist. In late 2010, the Law Society Council decided that identifying those barriers and developing strategies to address them should become the focus of the Law Society's major Thought Leadership initiative for 2011.

A crucial element of this project was to speak with Law Society members – both male and female – about their views and experiences. To achieve an in-depth understanding of the issues and possible solutions, the Law Society spoke to members from all segments of practice and from across the State. In total, the Law Society held 12 roundtable discussions over three months tapping into the views of close to 100 members. Hundreds more attended four panel sessions and two launch events, including the launch of the report and recommendations on 1 December 2011.

The Law Society also examined demographic data for NSW solicitors to identify discernible trends about participation by women in the legal profession. In conducting this analysis, it became apparent that the statistics regularly published by the Law Society were unable to provide an indication of rates of retention or attrition for female solicitors. In an attempt to fill this gap, new data was extracted from the Law Society's database with the objective of developing an understanding of the numbers of women practising over time.

Following the publication of the report and recommendations on 1 December 2011, the Law Society started work on implementation under the leadership of 2012 President Justin Dowd.

One of the key recommendations endorsed by the Law Society's Council was to:

Publish information to assist practitioners and employers who are considering flexible work arrangements including:

- information on different types of flexible working
- tips on developing an appropriate arrangement, and
- information on the value of flexible working.

This new Law Society publication aims to provide this information by drawing on the experiences of practitioners and searching out practical tools which may assist them and the practices in which they work. The Law Society believes this resource will be of use to both men and women who are interested in achieving a more flexible, more diverse profession at all levels.

Tip for practices

Ensure workplace policies, particularly for flexible working, are capable of implementation in practice. Find ways to make the policy work for individuals.

LAW SOCIETY RESEARCH ON FLEXIBLE WORKING

Tip for practices

Make working off-site a practical reality by providing effective access to technology.

Flexible working was one of the key areas explored during the Law Society's roundtable discussions with members during the 2011 Thought Leadership program.

2011 qualitative findings on flexible working

Discussion participants generally held the view that flexible working policies are published with good intentions, but that the practicalities are not as positive. Many participants commented that client demands often determine whether or not flexible working will be permitted, although with some creativity, these demands can be met. A team approach was highlighted as one mechanism for achieving success in all segments. This was recognised by sole practitioners who described the absence of team support as a particular disadvantage of sole practice.

"An effective team approach makes a huge difference as to whether flexible working arrangements will be accepted by clients and by a firm. One partner at my firm divides her time between Australia and an overseas office, but does so with such a level of team support that no one even thinks about the fact she is working flexibly."

Male partner, large law firm

Despite being in control of their own practice and work decisions, sole practitioners emphasised difficulties in working flexibly due to a fear of losing clients. This also extended to taking career breaks, such as maternity leave.

"Sole practitioners never really turn off. When on holidays they take their blackberry and laptop and for all intents and purposes, business is operating as usual – their clients don't know they are overseas. This is because someone may take advantage of it."

Female suburban sole practitioner

Team support was considered vital in making flexible working arrangements a practical solution. Not being present or available at all times necessitates that at least one other person, who is trusted by the client, must always be up to speed with a matter. Examples from corporate practitioners demonstrated that this can result in seamless delivery to the extent that others in the organisation may not even have an awareness of the particular arrangements in place.

“In a team of four lawyers, only I [the General Counsel] am full time. We have made this arrangement work through a very strong team approach which allows us to be seen to be available and to provide good service through quality advice in a timely manner.”

Female corporate lawyer

Women must put together a compelling business case for alternative work arrangements. There must be collaboration between the individual, team and organisation to make flexible working arrangements viable and to ensure everyone has the same understanding of roles and responsibilities.

For those women working in firms, many had experienced difficulties with meetings being scheduled for their days off or at times when caring responsibilities made it impossible to attend. It was noted that working around these parameters would not be difficult in many cases. There was also the corresponding view that a decision to work part time will necessarily mean that meetings will be scheduled on days off and that “missing out” on these was just part of not working full time.

“I am the only partner in a group of six who works full time. The others in the group have a combination of flexible work arrangements. They manage their own systems and have terrific assistants. Everyone has a blackberry and laptop and all partners have an awareness of all matters so any emergencies can be dealt with.”

Female partner, large law firm

Flexible working was reported as more common in government practices where employers may be obliged to consider or permit alternative practice arrangements. There was a perception that flexible working was less of a barrier to career advancement in these circumstances. While most government practices are not driven by profit-making, they deal with demanding clients (for example, ministers and senior officials) and have high level performance indicators.

2011 statistics on part time working

The Law Society's *2011 Profile of the Solicitors of NSW* (prepared by Urbis) sets out the number of NSW solicitors working part time as reported by practitioners who completed the relevant questions in the 2011-2012 Practising Certificate Survey.

Part time working continues to be more popular with women who made up 66% of the 1531 solicitors reporting less than full time hours (compared with 65% in 2010). In total, 22% of female respondents, compared with 9% of male respondents, said they worked part time (21% for females and 10% for males in 2010). Part time work was more common for respondents over the age of 35 and among those working in small firms (up to four partners) or in sole practice.

These figures are very similar to those reported for 2010, although it is noteworthy that there has been an increase of around 24% in the total number of solicitors who reported working part time (up from 1234 to 1531 in 2011).

Part time working by solicitors in 2011

	Male	Female	All solicitors reporting part time working
Total number reporting part time working	512 (33.4%)	1014 (66.2%)	1531
Mean hours worked per week	20.7	24.5	23.2

Note: Total does not reflect totals of males and females as gender not stated in some cases.

The Case for Flexibility – Delivering best practice in integrating work and life in the legal profession: A guide to implementing a flexible workplace

Prior to the 2011 Thought Leadership project, the Law Society completed a major piece of work focusing on flexibility.

In February 2005, the Law Society published *The Case for Flexibility – Delivering best practice in integrating work and life in the legal profession: A guide to implementing a flexible workplace* (the Case for Flexibility). Publication of the Case for Flexibility followed a growing recognition over a number of years that a study was needed to assist legal practitioners and firms to develop and implement flexible work practices successfully. In particular, the key objectives of the study were to:

- raise awareness of the benefits of implementing flexible work practices (particularly in private practice)
- build commitment to implementing flexibility in the legal profession
- provide practical advice on implementing flexibility in the legal profession
- increase the use of flexibility in the legal profession
- attract and retain talent in the legal profession
- increase productivity and profitability, and
- improve client service in the legal profession.

To achieve these objectives, the study methodology focused on the examination of legal firms which were reputedly best practice models in implementing flexibility. In order to develop a holistic perspective, comments on the implementation of flexibility were sought from partners/supervisors, human resources managers and practitioners working flexibly.

The Case for Flexibility identified eight key findings which contribute to the success of flexibility within law firms:

- articulate and promote the value of flexibility
- demonstrate leadership
- provide support for supervisors
- grow effective behaviours and attitudes in the employee working flexibly
- develop a communication plan
- identify barriers to flexibility and develop creative solutions
- develop Flexibility Principles, and
- create the pathway for implementation.

The Case for Flexibility presents a compelling case for flexibility in the legal profession, both as a strategy to help practitioners to integrate their work and life commitments, and as a pathway to enhancing the profession's diversity, quality and commitment to service. There are a number of references to this earlier publication in the sections that follow.

TYPES OF FLEXIBLE WORKING ARRANGEMENTS

Tip for practitioners

Be prepared to make a business case for flexible working. You are more likely to be successful if there are benefits for your employer as well as for you.

There are many types of flexible working arrangements now in use. While part time working was the most common arrangement referred to by participants in the Law Society's roundtable discussions, job sharing also appears to be emerging as an effective alternative. Examples were given where coverage provided by two matched lawyers sharing the one job was seamless.

The list of the following arrangements draws on descriptions published by the Law Society in the Case for Flexibility and by the Women Lawyers Association of NSW in partnership with ALPMA.¹

Flexi-time

Allows employees to select their starting and finishing times within a range of hours around core operating hours.

Compressed work week

Enables employees to work their allotted hours over fewer days, for example 10 hours per day over four days, or 80 hours over nine days, rather than the traditional eight hours per day over five days.

Time in lieu, banked hours and making up time

Banked hours are extra hours worked above the expected number of hours, for use at another time. Time in lieu (of payment) refers to taking time off to make up for the extra hours worked. Making up time refers to working extra hours above the expected hours for time taken off at an earlier date and which are now "owed" to the employer.

Part time work

Working part days, five or less days per week or working full days, but fewer than five days per week.

Job sharing

Where two employees share one full time job with its pro rata salary and benefits.

Part year work

Working reduced hours on an annual basis, rather than a daily or weekly basis. For example, working full time during the school year and then taking a block of time off during school holidays or the summer break.

Remote working

Working some or most scheduled hours at a place other than the main location of the employer. Sites away from the workplace include working from home, from a satellite office, in a telecentre or at another worksite (for example a client's office).

Purchasing additional leave

Allows employees to “buy” additional leave, but average the reduced annual salary over the year.

Taking additional unpaid leave

Allows employees to take additional periods of unpaid leave which may be fixed to cover specific periods such as school holidays.

¹ ALPMA and Women Lawyers Association of NSW, *Model Proposal for a Flexible Working Arrangement*.

THE VALUE OF FLEXIBLE WORKING

Tip for practitioners

Be aware of the impact of flexible working on your colleagues. They are your greatest allies in making it work.

During roundtable discussions, participants from all segments of practice suggested that offering flexible working arrangements can bring advantages to a legal business. This finding reflects the body of literature² recognising the benefits of flexibility which include the following:

Attracting talent

Legal practitioners seek the opportunity to work with a firm that understands and values their contribution, provides development and experience through work projects and respects the desire for balance in their lives, be that for family reasons or life interests. The study undertaken in the Case for Flexibility found that being known as an employer of choice in relation to flexibility attracted a wider pool of legal candidates to firms. This may include those who wouldn't otherwise apply but are highly skilled and motivated, for example, those with family or caring responsibilities.

Retaining talent

Some of the firms which participated in the Case for Flexibility reported a link between flexibility and an increase in loyalty and a reduction in their staff turnover rates, particularly in relation to increasing return rates after maternity leave. The ability to retain valued employees can have a significant impact on the bottom line, both directly, through saving on hiring costs, and indirectly, through reducing associated costs, for example:³

- loss of revenue
- loss of specialist knowledge
- loss of clients
- loss of investment in professional development of individuals
- costs of advertising and employment, and
- lost time spent on interviews, clerical and administrative tasks.

Improving morale and job satisfaction

Flexibility has the capacity to improve morale and job satisfaction. Providing opportunities to work flexibly may have a positive bearing on how solicitors view their practice which can translate into loyalty, commitment, diligence and motivation. While salary was the most significant factor cited by employees in *Hudson's Salary & Employment Insights 2012* report⁴, 13.5% of respondents said they would be motivated to stay for a work culture that would make them happier. Assuming respondents are happy with their base salary, the report indicates that flexible working arrangements were the third most important benefit for professionals across most sectors (identified by 11% of respondents).

Improving productivity and efficiency

It is an often-repeated observation that lawyers working flexibly can be more efficient and effective in the time available to them than those who work in a standard, full time capacity. This may involve improved communications with clients and also better service delivery. It has also been suggested that flexible working can reduce unscheduled absences from work as employees are better able to meet their outside commitments and experience less stress and a greater sense of health and wellbeing as a result.

Other advantages

Other advantages which have been suggested include:

- improving ability to adapt to change
- increasing skills of managers who are challenged to demonstrate leadership
- enhancing capacity to recruit and retain particular sections of the workforce, for example, Generation Y or mature aged workers, and
- avoiding adverse impact on reputation from being seen as inflexible.

² See for example: The Law Society of NSW, *The Case for Flexibility – Delivering best practice in integrating work and life in the legal profession: A guide to implementing a flexible workplace*, 2005; Victorian Women Lawyers, *Do you manage? A guide to managing lawyers with flexible work arrangements*, 2010; Australian Institute of Management Insights, *Gender diversity in management – Targeting untapped talent: First steps*, 2012.

³ The Law Society of NSW, *The Case for Flexibility – Delivering best practice in integrating work and life in the legal profession: A guide to implementing a flexible workplace*, 2005, p 33.

⁴ Hudson Human Resources, *Salary & Employment Insights 2012 Australia/New Zealand*, 2012, p 5.

DEVELOPING EFFECTIVE FLEXIBLE WORKING ARRANGEMENTS

Tip for practices

Don't overestimate the resistance of clients to flexible work arrangements. Talk to them.

The Case for Flexibility identified a set of seven flexibility principles to facilitate cultural change in legal practices.

The findings of our 2011 Thought Leadership program suggest that these principles are still relevant as some workplaces struggle to turn a flexibility policy into workable arrangements for individuals.

Flexibility principles

1. Flexibility is a management tool that can help get the job done, not an employee perk or accommodation.
2. Employees' reasons for wanting flexibility should not matter to access a flexible work arrangement.
3. Not everyone wants flexible work arrangements.
4. Not everyone can have flexible work arrangements.
5. Flexibility must be applied consistently and fairly, although there may be tailored arrangements to suit different circumstances.
6. Flexibility works best when the work team and the clients are involved.
7. Flexible work arrangements can be temporary or permanent.

Participants in the Case for Flexibility also suggested the following tips for supervisors and for employees aspiring to flexible working:

Supervisor tips for success

Become knowledgeable about firm policies and guidelines

Be familiar with the firm's information on flexibility. Become aware of trends in flexibility through media, publications and social discussions.

Promote flexibility and work with employees to customise solutions

Use a collaborative and problem-solving approach to find the options that best meet business and personal needs. Remember, flexibility is a management tool, and should not be used to favour some employees over others.

Use discretion wisely

Flexibility requires the exercise of discretion. What suits one employee does not necessarily suit another. Discretion means considering each employee's needs individually and working collaboratively to find the right solution for that individual and the firm.

Be fair

Consciously work towards managing staff in a consistent and objective manner when considering requests for flexibility.

Be proactive

Put flexibility on the firm agenda. Open discussions about flexibility may lead to more efficient ways to organise work and time for the benefit of all team members.

Be open to a variety of requests for flexibility

Childcare and family commitments are often the reasons given when requesting flexible work options. Be aware that anti-discrimination legislation, both Federal and State, prohibits discrimination in employment against employees with family or caring responsibilities. There are, however, many other reasons why an employee would seek flexibility, for example to study, play competitive sport, pursue an individual interest or develop another professional interest. The supervisor will need to set priorities, but as long as the work gets done, the reason for the request should not affect whether it is granted.

Be willing to say "no"

There are situations where the supervisor should not grant a practitioner's request for flexibility, for instance because of organisational constraints (for example the nature of the work) or individual constraints (for example the staff member cannot work independently, or demonstrates an inflexible mindset). If you are unsure about the suitability of a request you may opt to trial the arrangement for a short period, and then review its success against clearly identified measures (for example client service).

Be flexible

Even with proper planning, unforeseen events can occur. The needs of the individual or the business may change and this may require a re-evaluation of the flexible arrangement. To facilitate the success of a flexible working arrangement, it is recommended that it be tried on a pilot basis for a period of time; and after implementation of the pilot stage, a process for review should be established to make modifications as required.

Evaluate flexible solutions

Be clear about the work deliverables and incorporate these in the performance plans for the individual practitioner, the practice area and the team.

Tips for the aspiring flexible employee

Assess your situation

- First, determine your need for flexibility – why do you want it and what form will it take to best meet your needs.
- Find out what your firm currently provides in the form of flexible work practices. Talk with different people across the organisation. If there are no policies in place, then identify the kind of flexibility you want and be prepared to pioneer it.
- Think about your working style and what kind of flexibility is most suitable.
- Be realistic about possible costs on your employer, for example setting up an office at home.

Create strategies

- Identify several options that will help you handle your work responsibilities and that will work for your supervisor, the team and the client.
- Plan for everyday as well as emergency situations.
- Develop a communication plan – when, where and how you will be available. Conversely, when and where you will not be available.

Make your business case

- Identify the flexible leave options you are seeking and why.
- Give examples of successful implementation of the flexible leave options.
- Outline the benefits compared with the perceived problems and costs.
- Outline the plans and steps to be implemented to minimise any impact on your work responsibilities, the team and client.
- Outline the communication plan.

Supervisors and employees may be assisted in carrying out these suggested strategies by using the practical tools outlined in the next section.

Tools for developing effective flexible working arrangements

The findings of the Law Society's 2011 Thought Leadership project suggested that practices and practitioners still need assistance in moving from a workplace flexibility policy to the implementation of appropriate arrangements for individuals. This is consistent with earlier work in the Case for Flexibility as well as publications by Victorian Women Lawyers and the Women Lawyers Association of NSW in conjunction with ALPMA. While it is vital that an effective arrangement include recognition of the needs of the client, the work team and the practice as well as the lawyer, it may not always be clear how this can be achieved without detailed planning.

In July 2010, Victorian Women Lawyers (VWL) published two practical tools to assist practices and practitioners with the development of flexible work arrangements:

1. Flexible Work Proposal/Business Case
2. Individual Flexible Work Plan

These tools cover all elements of an arrangement and can be tailored for use in any practice. The Law Society believes they can provide practical help to lawyers and their employers and is grateful to VWL for allowing us to reproduce the templates at the end of this publication.

VWL suggests that the following steps be followed in using these templates:

Step 1: lawyer to consider appropriate arrangement

The lawyer should consider the nature of the flexible working arrangement that would suit that person and consider any expected challenges for the lawyer and the firm. It can be helpful for the lawyer to discuss this with other colleagues who have successfully transitioned to a flexible working arrangement.

Step 2: lawyer to approach the partner/manager

The lawyer should tell the partner/manager that he or she is considering requesting a flexible working arrangement and arrange a time to discuss this.

Step 3: partner to review the issues and lead the discussion

The partner and the lawyer should consider the issues arising from the proposed arrangement prior to the discussion. The template Flexible Work Proposal/Business Case is designed to encourage all those involved (lawyers and partners) to realistically consider the implications of adopting the arrangement and meet the legal requirements.

The Flexible Work Practices Proposal/Business Case should be used as a prompt at this stage to check that both the lawyer and the partner are considering and raising the issues that may arise from the change in work practices. This will include the benefits for both the lawyer and the organisation and the challenges that may need to be addressed before the arrangement can be approved.

The Flexible Work Practices Proposal/Business Case provides a platform to have the “difficult” conversations to ensure the arrangement can work successfully for the lawyer, the partner and the firm.

Not all proposals will be acceptable to the firm on business grounds; however, all proposals need to be properly considered.

Step 4: documenting the proposal

The Flexible Work Proposal/Business Case should be completed by the partner with input and agreement from the lawyer.

Step 5: approval or rejection

The lawyer should be informed whether the proposal is accepted or rejected within 21 days of the request. If steps 3 and 4 have been conducted properly, this should be relatively clear at the conclusion of step 4. If rejected on reasonable business grounds, reasons for the refusal should be included in the written response.

Step 6: flexible work plan

If the arrangement has been approved, in addition to modifying the employment contract, it can be useful to document the expectations of those involved in the form of a detailed Flexible Work Plan which is tailored for each lawyer and team.

The template Individual Flexible Work Plan can help avoid misunderstandings within the team and set common expectations about the arrangement. For example, a partner may expect that the lawyer is available to undertake urgent tasks on the day the lawyer is not in the office. This may not be achievable if the lawyer is at home with two small children on that day. However, responding by phone may be possible. Understanding what is expected on both sides will assist in creating a successful arrangement.

Covering the detail of day to day practice will greatly increase the likelihood of success, but bear in mind that compromise and adjustment may be necessary once the arrangement is in place.

Step 7: regular review

The arrangement should be regularly reviewed and modified if necessary.

ANNEXURE A: FLEXIBLE WORK PROPOSAL/BUSINESS CASE

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1. Current work/hours – billable/non-billable

- i. What are the main areas/types of work the lawyer does?
- ii. What non-billable activities does the lawyer do?
- iii. What are the lawyer's hours on average in the office?
[check past 12 to 24 months figures and cover billable and non-billable]
- iv. What is the lawyer's average utilisation or performance against budget?
- v. What are the lawyer's career goals and timeframe?
- vi. Add any other comments relevant to the review of the current position, ie goals, specialisation, areas needing work or experience.

2. Current team

- i. How many partners, senior associates, solicitors are in the current team?
Note any already on flexible work arrangements.
- ii. What are the hours and utilisation/performance levels of the team?
[For partner completion/review]

3. Current clients

- i. Who are the lawyer's/team's major clients?
- ii. What other lawyers know and are familiar with these clients?

4. Proposed changes to hours/location

- i. What are the proposed changes to days in the office, hours or location?
[Discuss any concerns or consequences of these arrangements, eg it may help with servicing clients if days in the office are consecutive. Is there a need to be in the office on a particular day, such as Fridays in litigation practices?]
- ii. What are the reasons for the requested arrangement?
[eg only days with child care available, days lectures are held on, etc.]
- iii. Are there days where the lawyer must finish at a particular hour with no flexibility?
Which days and why?
[eg child care centre closes and no one else can pick up, training starts at x time, etc.]
- iv. When not in the office, when will the lawyer be contactable?
- v. If extra hours are worked, what arrangements will apply?
[Insert proposed arrangement, eg will the lawyer be paid or get time in lieu? Does there need to be approval before working extra hours? Is extra pay only available on conditions, ie an extra full day in the office?]

5. Proposed type of work – billable

- i. Are there any parts of the lawyer's current work mix which may be affected by the flexible arrangement?
- ii. How could the affected parts be handled?
[eg not include this in the work mix, ensure there is always a full timer across that aspect of the work, resource matters to minimise involvement in that work or to cover the lawyer when they cannot be there, change hours/days so the lawyer can still do this type of work when it arises.]
- iii. What will be the lawyer's utilisation or budget?
- iv. What types of work will the lawyer be able to do to meet the utilisation/budget performance?
- v. Will the lawyer need other types of work to meet utilisation? If so, what types of work could the lawyer pick up?
- vi. What are the lawyer's career goals and how can the firm assist with meeting these?

6. Proposed non-billable activities

- i. Will there be any change in the lawyer's business development activities? *[List intended activities and note whether the lawyer will still be asked to events and included in client teams and meetings.]*
- ii. CPD requirements still need to be met. How will the lawyer achieve this?
[Note that solicitors in NSW who work less than full time can ask the Law Society for a partial exemption from the mandatory continuing legal education requirements under MCLE Rule 42.6.4]
- iii. Will the lawyer be able/expected to attend team meetings and firm social events?
- iv. What conferences or other external events will the lawyer be entitled/expected to attend?
- v. Will there be any change to other non-billable activities: volunteering, knowledge management, external or internal committees?

7. Proposed team

- i. Will more lawyers need to be added to the team? If so, at what level and why?
- ii. When new work comes in, how will it be allocated?
[If possible, the team should meet and discuss how to apportion the tasks.]
Has the lawyer or partner discussed with anyone in the team the need to share the lawyer's tasks?
- iii. Who does the lawyer currently delegate to or supervise? How will those arrangements be affected?
- iv. Will there need to be any change to the way the lawyer is supervised?
- v. Has a template been prepared of work types and who the lawyer would work with for that work type (if applicable)?
[See also Annexure B.]
- vi. What will be the effect on the workload of the secretarial support? How can this be covered?

8. Proposed clients

- i. Which clients will be told, and how?
- ii. How will the clients continue to be serviced? Is it possible to match clients or work type with an alternative lawyer who can handle the issue when the lawyer is not in the office?
- iii. What will happen with phone, email on current and new matters while the lawyer is not in the office?
[See draft work plan at Annexure B.]

9. Proposed technology, pay and bonus entitlements

- i. What technological aids does the lawyer need to manage the change in hours?
[ie laptop, broadband, Blackberry, phone, etc.]
- ii. Will the lawyer's salary be changed and if so, how?
- iii. What bonus entitlements will the lawyer have?
- iv. What arrangements will apply if extra hours are worked?

10. Review

- i. What arrangements should be set up to review the arrangement? This should cover how it is working for the lawyer (including the lawyer's performance), the partner, the firm and clients.
[Best to do this every 3 months. Suggest and diarise the appropriate dates with a prompt a week before to email the team and request any feedback.]

11. Check of key issues

Consider whether the key issues have been considered. The key legal issues to consider are all relevant factors and circumstances, including:

- i. the lawyer's circumstances, including nature of the responsibilities if the lawyer is a parent or carer (covered in Q4ii)
- ii. the nature of the lawyer's role (covered in Q1–3)
- iii. the nature of the arrangements required to accommodate the responsibilities (covered in Q4–9)
- iv. the financial circumstances of the firm (to be considered by the partners)
- v. the size and nature of the workplace and firm (consider Q2 and 7 and overall practice group and firm)
- vi. the effect of the changes on:
 - finances (consider Q1 and 5, costs of replacement, costs of staffing);
 - persons who benefit or who are disadvantaged (consider Q2, 5, 6, 7);
 - efficiency and productivity and client service (consider Q1, 5, 6, 8, 9);
 - the firm (all questions plus consideration of reputation, morale, recruitment, profitability, service levels etc);
 - the lawyer if the changes are not introduced (consider Q4).

ANNEXURE B: INDIVIDUAL FLEXIBLE WORK PLAN

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1. Purpose and core aims

The purpose of this Flexible Work Plan is to document working arrangements and proposed work procedures and protocols for [lawyer's name].

In particular, the purpose of this Flexible Work Plan is to ensure that [lawyer's name]'s work flows are evenly spread and that clients/matters are appropriately managed so that:

- circumstances where it is necessary for [lawyer's name] to be contacted on the days the lawyer is out of the office are kept to a minimum;
- [lawyer's name]'s workload on those days that the lawyer is in the office is kept at a manageable level and in keeping with working part time;
- clients/matters are appropriately and seamlessly dealt with by other Team members when [lawyer's name] is not in the office;
- [lawyer's name] is able to continue to develop a practice, client base and career goals.

It is anticipated that a copy of this Plan will be distributed to Team members so that they are aware of [lawyer's name]'s flexible work plans. Team member feedback will be sought in relation to the arrangements set out below.

It is acknowledged that it is hard to anticipate all of the “challenges” that may be experienced when working less than full time and that the arrangements documented in this Flexible Work Plan may need to be adjusted as needed.

2. Flexible work – overview of core parameters

2.1 Key dates

Date	Event
	Return to work on a part time basis, working x days/week [insert days in office]
	Review part time basis and work arrangements – consider whether to maintain current arrangement

2.2 Core work restraints

[Note: the following is an example for a lawyer who has child care responsibilities, although this section can be adapted for other commitments such as elderly parents, sick family member, study, sporting commitments. The purpose of this section is to create a realistic understanding about what the lawyer is capable of doing. Some lawyers may be happy to be contacted at any time and have the capacity to undertake extra work, some may not be able to even take a call and others may not be able to do any work until late at night on a day they are not in the office. Knowing these constraints is valuable.]

To facilitate [lawyer's name]'s return to work, child care has been arranged as follows: [insert child care arrangements and days and times, eg]

- 1 day of care (Wednesdays) at XYZ Child Care Centre
- [lawyer's name]'s husband will care for [name of child] 2 days/week (Mondays and Thursdays)
- [lawyer's name] will care for [name of child] 2 days/week (Tuesdays and Fridays)

In order to implement these arrangements:

- Mondays, Wednesdays and Thursdays – [lawyer's name] will need to leave work by no later than 5.30pm each day
- Wednesdays – [lawyer's name] will generally not be able to be in the office until approximately 9.30am, but on Mondays and Thursdays [lawyer's name] will endeavour to be in the office by approximately 8.30am
- Tuesdays and Fridays – it will be difficult for [lawyer's name] to undertake work other than after 8.00pm if really necessary

[Note: it is useful here to discuss what will occur when the child has a routine illness that impacts on child care arrangements. Can the lawyer realistically work from home? Does the lawyer have access to family support? What are the lawyer's and the partner's expectations?]

2.3 Work flow and utilisation

It is acknowledged that it is important that [lawyer's name]'s utilisation is consistent with the other members of the Team. Where [lawyer's name] has concerns about under or over utilisation, the lawyer will raise these with Team partners (as appropriate).

3. Type of work

3.1 Billable work and clients

- (a) *[lawyer's name]* will continue the following areas of work:
- (b) *[lawyer's name]* will continue relationships with the following clients:

3.2 Non-billable work

- (a) *[lawyer's name]* will continue to:
 - (1) attend CPD events;
 - (2) attend team meetings;
 - (3) attend client entertainment and events, where possible;
 - (4) be involved in *[any committee?]*;
 - (5) participate in *[any precedent work?]*;
 - (6) *[other?]*.

3.3 Team

- (a) *[lawyer's name]* will continue work for *[name]* and *[name]*, with reporting priority to *[name/position]*.
- (b) *[lawyer's name]* will continue to supervise and delegate to *[name/position]*.

4. Flexible work procedures

4.1 Procedures for days in the office

- (a) Communication
 - *[lawyer's name]* to arrange regular debriefs and updates with appropriate team members and partners when in the office as to status of matters and work flows.
- (b) Unfinished work
 - *[lawyer's name]* will ensure that there is at least one other solicitor/Team member involved and across each matter so that this person is appropriately briefed and able to deal with any queries arising while *[lawyer's name]* is not in the office and is able to continue unfinished work that must be completed that day when *[lawyer's name]* has to leave the office and is unable to complete this at home.
 - *[lawyer's name]* will ensure partner or client as appropriate is informed of any delays.
 - *[lawyer's name]* will ensure person who will have to pick up unfinished work is aware as soon as possible of this likelihood, to minimise inconvenience and ensure their work flow is appropriate.
- (c) Meetings
 - Team meetings will be scheduled at times and days *[lawyer's name]* can attend.
 - Client meetings relevant to a matter or client involving *[lawyer's name]* will be scheduled where possible on days and at times *[lawyer's name]* can attend.
[Note: it is helpful to specify if there are times on working days that are difficult.]
- (d) Supervision and review of work
 - [Note: agree how work will generally be allocated and supervised – this will vary depending on the seniority of the lawyer and the particular arrangement.]*
 - Work must be given by *[lawyer's name]* to a partner or supervising solicitor for review by lunchtime on any day where *[lawyer's name]* is not in the office the following day, to give time to review and correct. Times for delivery of work for review should be flagged or diarised with the partner or supervising solicitor.
 - *[lawyer's name]* must monitor and schedule the timing for any work the lawyer delegates to juniors to enable juniors to learn from the input from *[lawyer's name]* on their work.

4.2 Procedures for days out of the office

[Note: this is again an example for a lawyer working less than full time who is being open to all clients about the arrangement. These items may need to be adapted]

(a) Communication

- [lawyer's name] will ensure effective and clear communication to clients and Team members of work hours and arrangements for days the lawyer is not in the office (eg other persons on the file who can be contacted).
- Secretaries will be provided with an updated list of clients/Team members so that queries can be appropriately referred when the lawyer is not in the office.
- [lawyer's name] will check Blackberry.
[Note: agree what is reasonable so that there is a clear understanding on this]
- [lawyer's name] will be contactable on mobile to deal with [.....].
[Note: this should be discussed and an acceptable level of contact agreed, eg only in an emergency, or when there is a development on a particular matter]

(b) Phone

- [lawyer's name] will set voice message so that it clearly states which days the lawyer is in the office and which days the lawyer is out of the office.
- [lawyer's name] will divert phone to the secretaries on days the lawyer is out of the office.
- The secretaries are to “screen” calls and regularly check voicemail; they will refer calls to appropriate person (see below) or let clients know when [lawyer's name] will be in the office and tell them that the lawyer will call them back when next in. This procedure will apply in instances where it is not possible to refer the matter or if matter is not urgent and client is happy to wait until [lawyer's name] is next in the office. These instances should be minimised so that [lawyer's name] does not have a “backlog” of calls to return on days in the office. Some clients may be happy to leave voicemail message and the secretaries are to offer this as appropriate in situations where the matter cannot be referred (as detailed below).

(c) Outlook – email and calendar

- [lawyer's name] will set “out of office” auto message for days out of the office.
- [lawyer's name] will include details of days in/out of the office as part of email signature (to appear automatically at the end of each email).
- [lawyer's name] will arrange with the secretaries that lawyer's calendar is “blacked out” for days out of the office.
- Secretaries are to check emails regularly during lawyer's days out of the office. Emails are to be referred to appropriate person (see below) or “holding” email is to be sent to client (in the event that it is not possible to refer the query).

(d) Current matters

- Existing clients/matters are to be referred to designated Team member. [lawyer's name] is to provide appropriate details of client/Team member to the secretaries.
- In the event that it is not possible to refer to a designated Team member, the matter is to be referred to Team partners (depending on availability) if it is urgent, or the secretaries are to check whether client is happy to “hold” until [lawyer's name] is back in the office.

(e) New matters

- New instructions coming in from existing clients are to be referred to designated Team member who works with [lawyer's name] for that client. [lawyer's name] is to provide details of client/Team member to the secretaries.
- In the event that it is not possible to refer to a designated Team member, the secretaries are to refer the matter to Team partners (depending on availability) if it is urgent, or check whether client is happy to “hold” until [lawyer's name] is back in the office.

(f) Urgent issues

[Note: you should discuss and agree what level of contact and manner of contact is appropriate for urgent matters. Does the lawyer want to be asked if he or she can assist, or does the lawyer not want to be contacted unless there is no other option?]

(g) Team communication and supervision

- *[lawyer's name]* is to seek updates from Team members regarding current matters at the beginning of each day the lawyer is in the office. Team members are encouraged to provide email updates (if this is appropriate) or to give a verbal update to *[lawyer's name]* when the lawyer is in the office (they should come and see *[lawyer's name]* if the lawyer has not touched base with them by 10.30am).
- Team partners are to brief *[lawyer's name]* on any new matters coming in (as appropriate).

(h) Extra hours

[This needs to be tailored to meet the firm's policy.]

- *[lawyer's name]* will be compensated for any extra hours worked in the following manner:
- *[lawyer's name]* will complete and submit time sheets to the Team partner for approval where at least a full day's extra work has been required on a day *[lawyer's name]* is not meant to be in the office or showing *[10% extra hours]*.
- *[lawyer's name]* and partner can determine whether to request time in lieu or payment for extra hours worked.
- The approved time sheet will be submitted by *[lawyer's name]* to accounts/HR to facilitate payment or arrange additional leave time.

(i) Business development

- *[lawyer's name]* will be invited to and will try to attend all client events and meetings. Any events being organised should be notified to lawyer as soon as possible to enable suitable arrangements to be put in place to enable attendance.
- Any new client strategies should include the lawyer, though the lawyer may decline participation if it will disrupt the flexible work arrangements.

(j) Professional development

- *[lawyer's name]* will continue to supervise the following team members: *[insert names]*.
- *[lawyer's name]* will continue to attend and deliver the CPD sessions on *[.....]* provided they are on the scheduled days in the office.
- *[lawyer's name]* will continue to contribute to precedent reviews and content.

(k) Other firm events

- *[lawyer's name]* will be invited to all social or other team and firm events, though there is no obligation to attend on days and times lawyer is not scheduled to be in the office.

5. Review of arrangements

Approximately one month following *[lawyer's name]*'s commencement of this arrangement, feedback will be sought from relevant Team members (including lawyer's secretary) regarding the above arrangements with a view to a meeting being held in the week commencing *[insert date]* with Team partners to review progress, discuss what is working well and any potential improvements to be made to arrangements.

Thereafter, the above arrangements will be reviewed on a *[preferably quarterly]* basis. Team members will be encouraged to provide feedback regarding the "workability" of the above arrangements either directly to *[lawyer's name]* or to Team partners. In particular, it is acknowledged that it would be preferable that any problems with the above arrangements are communicated "sooner rather than later" and Team members will be advised of this and encouraged to raise issues early.



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