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Commission Wales

Welsh Parliament

Economy, Infrastructure and Skills Committee

Remote Working: Implications for Wales

Evidence from: Equality and Human Rights
Commission Wales

Consultation response

The implications for Wales of the WG's proposals on remote working

Consultation details

Title of consultation: The implications for Wales of the Welsh Government's proposals on remote working

Source of consultation: Economy, Skills and Infrastructure Committee

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For more information please contact

Click or tap here to enter contact name.

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Introduction

The ongoing Coronavirus pandemic has resulted in widespread changes to working practices across Wales and beyond. Social distancing measures have required many employers to implement flexible working practices in order to survive. There is little doubt that this has demonstrated that flexible working is not only possible, but also beneficial to both employer and employees. Despite the fact that working from home has helped many to improve productivity by giving greater flexibility, reports¹ indicate that many employees are worried their employer will revert to previous inflexible working practices.

The Commission welcomes the Welsh Government's proposal that 30% of workers in Wales will be working remotely on a regular basis over the long term, referenced in Transforming Towns. Its commitment to work with organisations to support a long term shift to more people working remotely is also welcomed.

¹ [Half of workers expect remote working reversal after Covid-19, Personnel Today, April 2020](#)

The current lack of detail included with the proposal makes it difficult to provide substantial feedback, but it also suggests there is an opportunity for genuine engagement and development of the detail of Welsh Government's proposal. One important distinction/issue to clarify at an early stage of the development of the proposals is related to the definition of remote working. Welsh Government has identified remote working as "working outside of a traditional office or 'central' place of work." This would include "working at home and close to home in your local community". The Commission supports this commitment, but would encourage Welsh Government to consider more far reaching flexible working proposals, of which remote working is one part.

Flexible working practices can be beneficial for both employers and employees. We will discuss this further during this response. Remote working is one part of flexible working but there are many more ways in which flexible working can operate in practice. There are more obvious options such as part-time, flexi-time, job-share and appropriate zero-hours contracts as well as less obvious practices such as term-time working, compressed hours, career breaks, employee self-rostering etc. Flexible working arrangements can be formal or informal, but there is now widespread evidence that supports the implementation of flexible working.

Recommendations

Welsh Government should:

- 1. Consider offering and encouraging employers to offer a wider package of flexible working proposals of which remote working is one part, such as offering flexible working from day one, and offer all jobs (including the most senior) on a flexible and part-time basis unless there is a genuine justifiable business reason to prevent this, recognising that flexible work and part-time work are both now standard patterns of work.**
- 2. Ensure compliance with Section 149(1) of the Equality Act 2010, the public sector equality duty. The General Duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review.**
- 3. Ensure compliance with the Specific Duties which are a legal requirement under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. These include Equality Impact Assessments (EIAs) which are a useful tool to ensure the consideration of the likely impact of proposed policies using available evidence before any decision to implement a policy is made.**
- 4. Ensure that engagement is ongoing to ensure effective decision making throughout policy and strategy development.**
- 5. Ensure equality and human rights are at the heart of the fair work principle to deliver flexible and fair workplaces across Wales to underpin an inclusive approach to recovery and reconstruction.**

- 6. Strengthen and maximise the opportunities presented by the Economic Contract to drive inclusive growth and responsible business behaviours, including promoting equality and human rights principles such as flexibility within the workplace.**
- 7. Ensure that the Social Partnerships Bill sets out fair work goals that include equality outcomes to drive the changes needed and support flexibility through shared understanding and concerted action.**

Questions

1. What do you think are the positive and negative impacts of Welsh Government's remote working proposals on the bullets outlined below, and what is the evidence and reasons for those impacts?

The remit of the Equality and Human Rights Commission enables us to respond to this question in relation to issues affecting the workforce, and skills; health (physical and mental) and wellbeing and inequalities between different groups and different parts of Wales (including those areas of with poor connectivity). Issues affecting the workforce and skills

Flexible working (including remote working) could be beneficial for both current and future workforces. During the Coronavirus pandemic the implementation of flexible working practices has demonstrated that flexible working is beneficial to both employers and employees. Flexible working enables many more people to participate in the labour market; particularly those with caring responsibilities, and disabled people; leading to greater efficiency, reducing stress and increasing employees' motivation and commitment.²

Welsh Government has recognised that Fair Work can help achieve a stronger, modernised, more inclusive economy. These are attributes that we need within the economy of Wales more than ever. The Fair Work Commission recommendations were accepted by the Welsh Government in full (the 6 priority recommendations were accepted in May 2019 and the remaining 42 in July 2019).

² <https://businessnewswales.com/spotlight-on-flexible-working-in-wales-at-free-online-conference/>

The Fair Work definition includes six characteristics – specifically in relation to this consultation security and flexibility and the opportunity for access, growth and progression are especially relevant.

Despite a wealth of evidence supporting the case for flexible working it is important that employers ensure that any decisions taken in relation to remote/flexible working, are taken after ongoing, meaningful engagement with all staff as well as representative bodies such as trade unions. Listed public bodies in Wales are legally required to conduct an Equality Impact Assessment (EIA) of all decisions. These are a useful tool to ensure the consideration of the likely impact of proposed policies using available evidence before any decision to implement a policy is made.

It is also important to ensure that any changes to working practices are accompanied by updated employment policies. For instance:

- remote management of staff is likely to require different skills and it is important that managers are given the training and support they need – this should include robust risk assessment policies
- domestic circumstances can change and so it is important to ensure employees are supported, and where possible, should increased flexibility be required, that this is offered
- Managers are often able to identify signs in the workplace that employees are experiencing violence and/or harassment at home. Where managers and staff have less in-person face to face time, it is important that alternative ways of offering pastoral care are considered. The first national lockdown saw a spike in domestic abuse cases in England and Wales, new figures have shown, with one in five offences recorded by police related to domestic violence.³

³ <https://www.itv.com/news/2020-11-25/one-in-five-crimes-involved-domestic-abuse-during-covid-lockdown>

Working flexibly/remotely can present difficulties for disabled people. Any new environment that a person begins to work from will require a risk assessment. In addition disabled employees may require reasonable adjustments to enable them to continue to work productively away from the workplace. This would include any domestic setting or community hub that is set up to ensure that they are fully accessible. Welsh Government would need to ensure steps were taken to ensure full accessibility of existing community buildings where such buildings were repurposed as community hubs. The feasibility of adapting old buildings and ensuring accessibility should be checked in advance with access experts. Disabled people and relevant access groups should be involved from the outset.

Health (physical and mental) and well-being

Improved work life balance can have positive benefits on physical and mental health, as well as well-being. This can obviously have a significant impact on employees' productivity. It is important to ensure that workers that work remotely do not develop feelings of isolation, being disengaged/disconnected and that effective policies are in place to ensure continuity of management and personal development. The Organisation for Economic Co-operation and Development's review of the evidence collected from member countries in recent years concluded that remote workers' wellbeing is important in sustaining productivity gains.⁴ Addressing wellbeing at work increases productivity by as much as 12%.⁵

⁴ <https://www.walesonline.co.uk/news/uk-news/flexible-working-what-weve-learned-19492073>

⁵ How to support mental health at work. Mental Health Foundation.

Inequalities between different groups and different parts of Wales (including those areas of with poor connectivity)

Flexible/remote working can enable people with some protected characteristics to engage more effectively in the labour market e.g. disabled people and women. An equality impact assessment will identify how the proposals may affect other groups including different age groups. Remote working might not work for everyone. This is why flexibility is so important.

In addition to women and disabled people, the Coronavirus pandemic has also seen increases in flexible working for other groups. For instance in a poll of 26 UK employers, conducted by Working Families in September 2020, two-thirds (68 per cent) reported male parents and carers had shown more interest in flexible working since the pandemic hit.⁶

There are also benefits to flexible/remote working to both employers and potential employees from the extended geographical area that potential recruits could come from. With a reduced need to travel to the workplace, provided someone has a decent broadband connection and a suitable working space they could work from any location. This will mean that people in more remote areas of Wales will have increased employment opportunities. It is also true that people will no longer need to leave Wales to pursue a well-paid career.⁷

⁶ <https://www.peoplemanagement.co.uk/news/articles/flexible-working-more-popular-with-male-employees-since-lockdown>

⁷ <https://www.bevanfoundation.org/commentary/remote-working-could-bring-new-opportunities-to-wales/>

How can the benefits of remote working be maximised, and what can be done to mitigate any potential risks and negative impacts?

Under the Right to Request Flexible Working Regulations 2014 any employee can request to work flexibly⁸ provided they have worked continuously for the same employer for the last 26 weeks. However an online survey of adults in 2019 by the TUC found that across the UK nearly a third of requests for flexible working were being turned down, and that flexible working is not available to many workers (58%), particularly those in working-class jobs (64%)⁹

Social distancing measures have required many employers to implement flexible working practices in order to survive, and have demonstrated that it is possible, and beneficial to both employer and employees. We hope to see this practice continue as the crisis draws to a close, as flexible working enables many people to participate in the labour market, particularly those with caring responsibilities, and disabled people, leading to greater efficiency, reducing stress and increasing employees' motivation and commitment.

Reports¹⁰ indicate that many employees are worried their employer will revert to previous inflexible working practices. We believe that this would be regressive and that both Government and employers need to consider what impact a move toward flexible working has had, both in terms of business delivery, but also in terms of its contribution towards the economy. Welsh Government proposals towards more remote working are helpful in supporting increased flexibility.

⁸ <https://www.legislation.gov.uk/uksi/2014/1398/made>

⁹ Our BEIS response

¹⁰ <https://www.personneltoday.com/hr/remote-working-after-covid-19-coronavirus/>

The Commission recommends that Welsh Government and other employers in Wales should offer flexible working from day one, and offer all jobs (including the most senior) on a flexible and part-time basis unless there is a genuine justifiable business reason to prevent this, recognising that flexible work and part-time work are both now standard patterns of work. This will ensure that all employees (including potential employees) regardless as to how long they have been employed are treated fairly.

Welsh Government should consider its remote working proposal as part of wider flexible working proposals. To fully maximise the momentum in this area that has resulted from significant increases in flexible and remote working since the start of the pandemic, Welsh Government should widely encourage employers to offer flexible/remote working to as many employees as is reasonable practicable to do so.

Any potential risks associated with a flexible/remote working policy should be assessed whilst developing this policy by carrying out an equality impact assessment and ensuring meaningful engagement with employees (as required by the Specific Duties which are a legal requirement under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011) will help identify risks and any likely disproportionate impact on particular groups. Equality Impact Assessments (EIAs) are a useful tool to ensure the consideration of the likely impact of proposed policies using available evidence before any decision to implement a policy is made.

As with any policy or practice it is critical to monitor the effectiveness of the policy once implemented by ensuring regular reviews, collecting and analysing disaggregated data by protected characteristic and critically by using this data to address any problems.

Which parts of the Welsh economy or workforce would be particularly affected by remote working proposals, projects and initiatives?

Evidence from the Welsh Governance Centre shows that a smaller proportion of the Welsh workforce compared to other parts of the UK are able to work remotely. Just under two fifths (39.9%) of the Welsh workforce are able to work at home. This is below the UK average of 45.2%.¹¹

A 2016 survey by the Equality and Human Rights Commission (EHRC) showed that Welsh employers lag behind England and Scotland in offering flexible working. 76% of Welsh office workers have said that flexible working is fairly/very important to them which is the highest in the UK where the average came in at 67%. Reasons cited for this include affording a better work/life balance (75%), improved job satisfaction (50%) and a UK high for being able to live where one desires (37%).¹²

What do you think the equality impacts - both positive and negative - would be of the Welsh Government's remote working proposals? What specific work needs to be undertaken to assess those impacts?

Currently there are few details available regarding Welsh Government's proposals for 30% of the Welsh workforce to work in a hybrid model. Much more detail is required to provide a more thorough assessment of the equality impacts of the remote working proposals.

¹¹

https://www.cardiff.ac.uk/__data/assets/pdf_file/0011/2425466/Covid_economy_report_2.pdf

¹² <https://www.michaelpage.co.uk/advice/management-advice/development-and-retention/how-flexible-uk>

As we have said throughout this response the adoption of more widespread flexible working proposals of which remote working is one part, would be likely to have a greater impact on the Welsh workforce than focusing on just remote working.

There is no doubt that offering the opportunity to both current and new employees to work flexibly/remotely would have a positive impact for all employees. Affording all employees the potential for improved work/life balance could lead to improved employer/employee relations increasing employee motivation and commitment, reducing stress and wider mental health benefits and crucially greater efficiency and improved productivity for the employer.

Focusing on particular protected groups' flexible/remote working could be especially beneficial for disabled people and women. The removal of barriers to engagement in the labour market for disabled people, by enabling them to work remotely (provided all access requirements are put in place) could have a significant impact on addressing the disability employment gap. Given that disabled people's employment rate is less than half that of non-disabled people¹³.

Women, carers and single parents in particular would also benefit from increased flexibility in terms of place of work, and where possible hours of work etc. Evidence shows that women still disproportionately have responsibility for childcare as well as other caring roles, and this poses a significant barrier to women entering the labour market.

¹³ Is Wales Fairer? 2018

Conducting a robust equality impact assessment of any flexible working/remote working proposals, which includes meaningful and ongoing engagement with people with protected characteristics, using all relevant information would identify any negative impacts that interventions would need to be put in place to mitigate.