Remote Working Guidance Consultation,
Enterprise Strategy, Competitiveness and Evaluations Division,
Department of Business, Enterprise, and Innovation,
23 Kildare Street,
Dublin 2

7th August 2020

By email

RE: Public Consultation on Guidance for Remote Working

Dear Sir / Madam,

The Small Firms Association (SFA) is the trusted partner of small businesses (less than 50 employees) in Ireland, with members in all sectors and parts of the country. Its mission is to deliver business-focused advice and insights to member companies, influence government policy to the benefit of small businesses and connect its members in a thriving community.

The SFA has a vision of Ireland as the most vibrant small business community in the world – supporting entrepreneurship, valuing small business, and rewarding risk takers. The SFA makes this submission to the Department of Enterprise, Trade and Employment based on our knowledge and experience of the small business community, which comprises over 267,000 businesses, employing half of the private sector workforce.

Overview

In 2019, as part of the SFA Grow, Scale, Succeed campaign[1], we undertook a survey of members on Smart Working[2]. The survey results show that business owners recognise that Smart Working will benefit their business, however, only 38% of small businesses had Smart Working arrangements in place. 45% of participants were unaware of the positive impact Smart Working has on productivity, employee satisfaction and engagement.

To support members and meet employee's needs, the SFA developed a sample flexible working policy to manage requests for flexible working arrangements such as remote working. To further assist the small business community we issued a remote working checklist, that encompasses current employment law, data protection and health and safety requirements to help small firms balance their legal obligations with the introduction of Smart Working for your business.

Following the campaign launch the SFA met with the Department of Business, Enterprise and Innovation's research team and gladly contributed to the *Remote Work in Ireland* paper.

Over the past few months, small firms have followed government guidance and facilitated their staff to work from home where possible. For many small firms this was the first time they facilitated remote working. Unfortunately, due to a lack of IT equipment and cloud computing not all companies were able to facilitate workers. In response to the unprecedented number of people working from home as a result of COVID-19, SFA has continued to promote our sample policy and checklist to Ireland's small business community, assist members with queries on working from home, raised awareness of cyber security and data protection risks and provided training on managing employees remotely.

General response

The SFA welcomes the recently published *Guidance for Working Remotely* during COVID-19, the detailed information allows small firms access to information on the key areas for employers and employees when it comes to remote working. In addition, by bringing all the relevant agency's information into one place organisations like ourselves can easily promote it.

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[1] https://www.sfa.ie/growscalesucceed
[2] Smart working survey

However, due to the number of employer responsibilities to consider and guidance already available, the guidance's current format is not very user-friendly especially for owner managers with limited HR support and experience in this area. The SFA proposes that the guidance is reformatted into a more accessible document - the Return to Work Safely Protocol, checklists and template is an example of how the document might be presented.

While working from home is one of the ways businesses across the country are adapting to help slow the spread of COVID-19, on a more long-term or permanent basis businesses will need to introduce a remote working policy or update their existing policy. The current guidance provides references and information on the areas to consider when seeking to engage with remote working solutions, however, it gives no information about how to use the information to create a remote working policy.

A remote working policy ensures business continuity and outlines which employees are eligible to work remotely (for example those that can competently undertake the work on their own with minimal supervision and jobs that can be done safely by one person; or by there nature can be done from home) what responsibilities the employee will have and the employers expectation of their performance. It also ensures that other related documentation such as contracts, policies and company handbooks are updated to reflect the accommodation of remote working. Due to the level of detail needed, a remote working policy template that businesses can edit depending on their business needs, should be included with the guidance.

This sample policy must stress the importance of reviewing the policy to ensure that it does not unfairly disadvantage certain roles or employees. We also recommend accompanying it with a checklist that sets out the key areas for consideration before implementing remote working.

Furthermore, we recommend the introduction of the following accompanying supports:

- A definition of remote working and description of the two types of remote working solutions, homeworking and hub-working, to clear up any misunderstanding about remote working arrangements.
- Examples of how to consider a role for remote working and a statement that not all roles can be considered for home working.
- Guidance from the WRC and the Data Protection Commission on keeping adequate records as required by the Organisation of Working Time Act 1997 for remote workers.
- Information for both employees and employers on their responsibilities to provide and ensure a safe place to work.
- Clarification from the HSA as to how risk assessments should be carried out in a remote working context.
- Guidance to employers to ensure they are cognisant of the challenges that can emerge through remote working such as isolation, impact on career progression, which would undermine the benefits of remote working if they are not addressed appropriately and the negative impacts mitigated by specific actions. Government needs to provide support in raising awareness and guidance to make sure this happens, which could include training for small firms and sharing of best practice if this initiative is to be successfully mainstreamed.

In recent months, small firms have reported challenges around the lack of clarity on how to implement a formal HR policy around remote work. In the long-run, training on the performance management of remote workers, how to measure performance for the purposes of probationary reviews and how to deal with mid-year reviews of remote workers will need to be delivered by state-funded education and training providers across the country. In addition, employees too need training in how to manage their time; set boundaries for work and non-work time; how to maintain their visibility in the organisation and how to remain engaged.

Despite the benefits remote working can bring to both parties, SFA submits that the cost impact is such that, for many smaller employers, in the absence of financial support from the State, the feasibility of remote working as a long-term flexible working solution will be greatly impacted. The cost is not limited to providing equipment and resources, but the issue of insurance is of particular concern, data protection, the cost of renting hubs and ensuring data protection compliance and security in a remote working hub and the HR and administration burden. SFA submits that in

considering remote working as a longer-term solution, further incentives including tax relief incentives are required to offset the challenges and cost impact arising from a remote working arrangement.

The *Remote Working in Ireland* report examined a right to disconnect and the recently published Programme for Government commits to bring forward proposals on a right to disconnect in 2020. As many employers begin to adopt long-term flexible working practices such as remote working more focus will be placed on this issue. While this issue is not being considered in this consultation, the SFA submits that before any policy initiatives are considered on the issue of a right disconnect, it is important for government departments to consider the legal framework on working time as it currently stands. As is evidenced from statistics from the Workplace Relations Commission on the enforcement of working time legislation, there exists a very effective right to disconnect under Irish law, enforceable through the established employment rights bodies. Before any additional measures are proposed, better communication of the existing framework, and the obligations it imposes, should be considered.

Ireland remains a small open economy. Many of our employers whether large multi-national or small indigenous business no longer operate on a strict 9 to 5 basis, but across different time zones and responsive to their customer needs. Any legislative intervention on working time as part of the policy response to this issue is likely to bring unhelpful rigidity to an increasingly flexible world of work. This flexibility is also highly prized by employees and often strongly supported by other government initiatives. Where concerns arise about excessive working hours or disproportionate reliance on digital devices arises SFA recommends, in the first instance, a raising of awareness of existing legal remedies and the promotion of workplace culture that embraces a balanced and flexible approach to working time.

Conclusion

To reiterate, the SFA believes that more detailed guidance including templates and checklists are needed to support employers and employees understand and adapt remote working practices. The submission contains several suggestions to facilitate remote working in small firms where it is possible. The SFA will continue to provide members and the wider small business community with support to accommodate remote working requests that can be facilitated and agreed at workplace level.

The SFA is keen to continue to engage with the Department of Enterprise, Trade and Employment on this issue.

For further information, please contact Elizabeth Bowen, SFA Senior Executive, on 01 605 1626 / 087 188 2951 or email elizabeth.bowen@sfa.ie. More information about the SFA is available at www.sfa.ie or on Twitter @SFA_Irl.