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Remote working in Ireland: People 'are being pushed back to the office against their will'

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8-10 minutes

WRC adjudicators say legislation gives them no power to consider merits of decisions made on flexible working requests – only the process followed



Commuters caught in torrential rain in Dublin. People seeking to work remotely are losing out when they take cases against their employers to the Workplace Relations Commission. Photograph: Colin Keegan/Collins

Legislation enacted last year on access to [remote and flexible work](#) has been described as “toothless”, with one employment lawyer advising his clients they would be wasting their money to pay him to advance claims to the [Workplace Relations Commission \(WRC\)](#) on the matter.

In the small number of cases decided to date under the Work Life Balance and Miscellaneous Provisions Act 2023, which came into force last March, no worker has succeeded in securing compensation.

The legislation gives an employer a four-week deadline to reply to a written request for remote and flexible working arrangements and requires a firm to consider the needs of the employee “objectively” against those of the business.

However, the commission's adjudicators have repeatedly affirmed that the law gives them no power to consider the merits of the decision made on a remote or flexible working request – only the process followed.

The first WRC decision in relation to the legislation was published in August regarding a case brought against [TikTok Technologies Ltd](#) by Alina Karabko. She had filed a request for fully remote working arrangements in July 2023 after TikTok told staff they were required back at its Dublin offices three days a week from October.

[[WRC ruling is final nail in coffin of the right to remote working](#)Opens in new window]

Karabko, who argued she could not find housing in Dublin for herself and her cat, argued that she would have to wake up at 3am and drive for 2½ hours to make it in for her 7am start time. TikTok told her working in the office was “essential” for “team collaboration and knowledge-sharing”.

The tribunal rejected her claim, finding that the company had considered the request “very seriously” before refusing it.

I tell my clients that the cost of bringing a request to work remotely claim isn't ordinarily worth it, because once the employer can show they've objectively considered the request, the claim will usually be defeated

– Solicitor Barry Crushell

In a case last October, the WRC heard a healthcare provider told an accounts worker who had moved to Co Kerry that he was needed back in Dublin twice a week despite an earlier assurance that his contract was for fully remote work.

“The needs of the business have changed,” a HR officer told the worker.

The firm's HR director later pulled back from the two-day-a-week demand and said it would be enough for the worker to come to Dublin once a month. The WRC adjudicator said he considered that a “reasonable” change, but added that he had no power to consider the actual merit of the change.

In a third case decided in December, a worker at Cognizant Technology Solutions sought a hybrid arrangement which would cap his in-office days at two a week. Javier Osorio told his bosses he needed to balance a work schedule that required him to work from 4pm to 1am liaising with colleagues in Latin America with his duties at home caring for his 10-year-old daughter.

[[Remote working: 'We see younger workers in particular saying they don't want to come back because of the expense involved'](#)Opens in new window]

Cognizant said the client account Osorio was working on was subject to a stipulation that staff be in the office the client had provided. The tribunal was satisfied with Cognizant's handling of the request.

Two other complaints were rejected when the tribunal ruled the workers involved had failed to make valid requests under the legislation, and a sixth case was dismissed after nobody showed up for a hearing.

A Department of Enterprise spokesperson said the WRC had received 34 complaints under the legislation to date. Seven were withdrawn without hearing; three were referred to mediation, and the rest are awaiting a hearing date or a ruling.

A source in the WRC said they believed the volume of cases under the Work Life Balance Act was small because the first two cases decided by the commission last year “got such huge publicity”.

“The power of the adjudicator is extremely limited,” the source said. “In both those decisions, the employee got such short shrift – not by the WRC, but the way the legislation favours the employer – the potential breakdown in relations doesn’t merit it.”

Another source said the first few cases decided made it clear that the legislation was “toothless”.

Remote working is an essential ingredient of a good workplace environment and needs to be protected and supported

– John O’Connell, Financial Services Union

Suzanne Feeney, director of recruitment firm Robert Walters Ireland, said there was a shift in the approach to remote and hybrid working last year, with more companies asking her firm about their competitors’ policies.

“We are in a tug-of-war situation here between what employers want and what employees want,” she said.

Feeney said it was the first thing the majority of candidates were asking about. “We have to be very clear from the outset with clients what the arrangement is. That room to negotiate has dissipated.”

Maura Connolly, head of employment law at legal firm Addleshaw Goddard, said that when the Work Life Balance legislation was enacted, it “immediately” led to some workers attempting to “copper-fasten their rights” to remote work patterns established during the Covid-19 pandemic. There was a “mismatch” between what workers “felt [the law] would create and what it actually does”, she added.

“If an employer is found to have not responded to the request or not assessed it fairly, there is a risk for the employer that they would have to pay compensation. But it doesn’t change the status quo.”

Solicitor Barry Crushell, whose firm specialises in employment disputes, said: “One in 10 of my current inquiries relate to remote working. [People] are being pushed back to the office against their will, and they are seeking clarification on what action or sanction may be taken against them if they refuse.

He added: "I tell my clients that the cost of bringing a request to work remotely claim isn't ordinarily worth it, because once the employer can show they've objectively considered the request, the claim will usually be defeated."

Dublin-based employment solicitor Setanta Landers said: "The reality is, there's no right to work from home. There's a right to ask, but it's at the discretion of the employer. It's a noble piece of legislation, but it's still at the discretion of the employer."

Landers said the WRC had affirmed that the obligation was "merely for the employer to consider the request".

[[The days of remote working start to look increasingly numbered for Ireland's workers](#)Opens in new window]

Landers and Crushell share a belief that it is more likely that the WRC would recognise a right to work from home in the context of established rights under equality legislation, particularly in connection with the protections for pregnant and disabled workers seeking reasonable accommodation, than under the work-life balance legislation.

In June 2023, the WRC awarded €50,000 in compensation to a garda after finding she was held back from being promoted to sergeant by the force due to disability, some aspects of which had led to her working from home.

A senior HR manager in the force had called it "challenging" to make reasonable accommodations for disability in the context of police work at the higher ranks, but the tribunal directed that the garda be considered equally for promotion.

John O'Connell, the general secretary of the Financial Services Union, which campaigned for legislation in the area, said initial indications were that the WRC code of practice "may not be sufficient".

"Remote working is an essential ingredient of a good workplace environment and needs to be protected and supported," he said.

O'Connell said the draft programme for government recognises the development of remote working during the Covid-19 pandemic as "hugely positive" and that it would be important to see those words "actioned" in the coming years.

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