

A photograph of a smiling woman with short brown hair, wearing a white long-sleeved top and a light-colored cardigan. She is sitting at a desk, talking on a black mobile phone held to her right ear. In front of her is a white keyboard and a blue and white patterned mug. The background is a bright, out-of-focus office or home workspace with large windows.

## **Public Consultation for a Code of Practice on the Right to Request Remote Working**

**Submission from Fórsa to the  
Workplace Relations Commission**

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# Introduction

Fórsa welcomes the opportunity to make this submission to the Workplace Relations Commission's (WRC) public consultation on a Code of Practice on the "Right to Request Remote Working". The union is an active affiliate of the Irish Congress of Trade Unions (ICTU), and this paper should be read in conjunction with ICTU's submission and policy on remote working.

Fórsa has over 80,000 members in the Republic of Ireland. Although the largest number work in the civil and public service, the trade union also represents workers in the semi-state sector, private companies (predominantly in aviation and communications) and section 39/56/10-funded organisations in the community and voluntary sector.

The global shift towards flexible working arrangements, accelerated by the Covid-19 pandemic, has highlighted the benefits and possibilities of remote work. In Ireland, nearly one in four workers began regularly working remote during the pandemic, fundamentally changing their work-life balance, job satisfaction, productivity levels, and commute times.

An evaluation on the impacts of remote working in May of 2022 published by the Department Enterprise, Trade, and Employment, concluded that the general benefits of remote working to employees and employers were likely to outstrip the costs. The report estimates that assuming there is no increase in shorter and more frequent trips by those working remotely, approximately 164,400 tonnes of CO<sub>2</sub> could be saved a year. Additionally, cost savings from commuting were found to outweigh home energy costs increases, with the average Irish household saving over €400 annually in commuting costs.<sup>1</sup>

Employers who embrace the changing world of work and choose to downsize expensive city centre office leases are estimated to incur potential savings of nearly €1500 per remote employee annually as calculated in past reports by the Irish Government Economic and Evaluation Service (IGEES).<sup>2</sup>

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1 Department of Enterprise, Trade, and Employment (2022) Press Release; Right to request remote work for all workers to be introduced through the DCEDIY Work Life Balance Bill, Gov.ie, Available at: gov.ie - An Evaluation of the Impacts of Remote Working ([www.gov.ie](http://www.gov.ie)) (Accessed 30 May 2023).

2 Department of Enterprise, Trade, and Employment (2022) Press Release; Right to request remote work for all workers to be introduced through the DCEDIY Work Life Balance Bill, Gov.ie, Available at: gov.ie - An Evaluation of the Impacts of Remote Working ([www.gov.ie](http://www.gov.ie)) (Accessed 30 May 2023).

Labour force data between Q4 2019 and Q4 2021 revealed a reduction in the number of women indicating “Home Duties” as their principal economic status by 96,200, coupled with record levels of female employment. Most caring responsibilities in Ireland are carried out by women. The ability to pursue remote work would help women continue to participate in the labour force at equal rates to men, ultimately aiding to close the wage and pension gaps.<sup>3</sup>

Additionally, in a study conducted by Amarách Research for Fórsa in 2020, 86% of respondents were found to be in favour of flexible working arrangements. Respondents cited improved work-life balance, reduced commuting time, and increased work flexibility as the advantages. Half of the respondents also stated that they felt more productive working from home.<sup>4</sup>

However, achieving these potential cost saving measures and improvements in quality of life can only happen with serious engagement by the WRC and the government with both employers and unions. In Fórsa’s previous submission to the Department of Business, Enterprise, and Innovation in 2020 during the public consultation on Remote Working, we highlighted research that illustrated both the benefits and concerns of workers and how best to address these issues in future codes of practice, for instance, by emphasising the employers responsibility to evaluate health and safety measures in off-site locations and their responsibility to foster cohesion between off-site and on-site employees.

Our submission to the DBEI in conjunction with our coalition-based campaign with ICTU for the right to remote work, contributed to the development of the Right to Request Remote Work Bill in 2022, now integrated into the Work Life Balance and Miscellaneous Provisions Act of 2023 as part of implementing the EU Directive on work-life balance. Fórsa acknowledges the collaboration that the government and the WRC has done thus far, and the achievements negotiated in this Act. However, issues remain regarding technical requirements for requests, employer response, refusal grounds, and the appeals process that effectively confine who may take advantage of these reforms, as well as problems with vague language that has ultimately given employers the ability to refuse a request due personal preference and not legitimate business needs.

The remainder of this submission will first expand on six primary components to be addressed in the Code of Practice; **Health, safety, and data protection, Right to a timely response, Grounds for refusal, Right to appeal, Non-discrimination, and Surveillance and privacy**. These themes have been central to our campaign with ICTU and are further explored in ICTU’s *Make Remote Work* policy revision publication.<sup>5</sup> This is followed by a more comprehensive list of Code of Practice guidelines for the WRC to consider at the end of this consultation.

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3 Department of Enterprise, Trade, and Employment (2022) Press Release; Right to request remote work for all workers to be introduced through the DCEDIY Work Life Balance Bill, Gov.ie, Available at: gov.ie - An Evaluation of the Impacts of Remote Working (www.gov.ie) (Accessed 30 May 2023).

4 Harbor, B. Fórsa (2020) Largest ever employee survey reveals huge appetite for remote working. Available at: Largest ever employee survey reveals huge appetite for remote working - Forsa (Accessed 31 May 2023).

5 Irish Congress of Trade Unions (2022) *Make Remote Work*, Available at: <https://ictu.ie/publications/make-remote-work> (Accessed 31 May 2023).



## Health, safety, and data protection

The Code of Practice must stipulate that the employer is responsible for verifying that all health, safety, and data protection precautions are possible at an employee's remote working location. The employer and/or management hub should provide a risk assessment checklist for the employee to use for a self-assessment of their remote working conditions. The Health and Safety Authority have thoroughly outlined guidance for employers and employees on how to effectively assess and maintain health and safety in remote work that the WRC should reference for the Code of Practice.

Any specialised equipment, PPE, and/or secure electronic devices should be provided for by the employer, such as an ergonomic chair or secure computer device.

The employee is responsible for following any instructions to maintain health, safety, and data protection standards in their remote working location, and has the right to report accident or injury incurred during working hours in their remote working location.



## Right to a timely response

Presently, the Act allows employers to take up to 12 weeks to return a response on a request for remote work to an employee. This is not in line with the Parental Leave Act which requires an employer response within four weeks. Prolonged applications place an undue burden on the employee requesting remote work, especially in special cases of emergency circumstances.

The new Code of Practice should state a right to a timely response, within four weeks of a request submission so that practice is uniform with pre-existing legislation.

The employer should also be required to meet with the employee and their union representative within two weeks of a request to discuss the best arrangement befitting to everyone. After such meeting the employer should be responsible for notifying the employee of the request decision in writing within two weeks of the meeting.

Employees should be aware that employers have a right to request additional information about a request for remote work where relevant (i.e., medical documentation, etc.) Any requests for additional documentation should adhere to an appropriate time limit as to avoid a situation where an employee request is withdrawn due to lack of an immediate response.



## Grounds for refusal

The reason(s) for refusal from the employer must be justified on objective grounds that relate to the real needs of the business and are both appropriate and proportionate to all circumstances of the business and the employee. The employer should cite the refusal reason in writing to the employee with adequate reference to the Code of Practice.



## Right to appeal

The integrated act has improved upon the original bill by adopting ICTU's recommendation that employees have the right to submit a complaint and appeal a decision with the WRC if the decision was not made in line with consideration for the Code of Practice.

However, the Code of Practice must also allow for employees to raise an appeal to the WRC in cases of penalization, victimization, or discrimination in the workplace as retaliation for requesting, participating, or appealing decisions on remote work.



## Non-discrimination

The new Code of Practice must outline that there is to be no form of discrimination or bias between those engaged in remote work and those not engaged in remote work for opportunities of promotion. It is the employer's responsibility to consider all employees fairly for promotion, as well as take the necessary steps to ensure remote and on-site employees have a cohesive working culture. Employers should be encouraged to develop training courses for managers and employees to attend that better prepare them for coordinating on-site and off-site effective communication and working strategies.



## Surveillance and privacy

The employer has a right to monitor activity on workplace devices, like email and phone. However, this is a limited right that needs to be balanced with the employees right to privacy. The employee must be made aware of any surveillance and monitoring being done and why it is there.



# Fórsa general Code of Practice guideline recommendations

- 1. Standardised evaluation criteria**  
Develop clear and objective criteria for evaluating remote working requests, providing transparency and consistency in decision-making.
- 2. Timely response**  
Require employers to respond to remote working requests within 4 weeks, ensuring that employees receive a prompt and fair assessment of their requests.
- 3. Appeals process**  
Employees can appeal a decision with the WRC in cases where the employer has not given fair consideration to a request in line with the Code of Practice or is exacting punitive or discriminatory measures on an employee who requests or participates in remote work.
- 4. Training and education**  
Encourage employers to provide training and education on remote working policies and practices, ensuring that managers and employees are equipped with the necessary skills and knowledge to effectively implement and manage remote work arrangements.
- 5. Flexible trial periods**  
Allow for a trial period during which remote working arrangements can be tested, providing an opportunity for both employees and employers to assess the feasibility and effectiveness of remote work.
- 6. Remote work agreements**  
Encourage employers and employees to enter into written agreements outlining the terms and conditions of remote working, including expectations, responsibilities, and any specific arrangements or policies.

**7. Technology support**

Ensure that employers provide necessary technological infrastructure and support to facilitate remote working, including access to secure networks, communication tools, and remote collaboration platforms.

**8. Data protection**

Employers should establish guidelines and safeguards to protect employees' personal data and ensure compliance with data protection regulations when working remotely. Employees should inform themselves of their responsibility to adhere to data protection instructions.

**9. Equal treatment**

Prohibit discrimination or disadvantage against employees who request remote working, ensuring that such requests are evaluated solely on the Code of Practice and without prejudice.

**10. Grounds for refusal**

Employer refusals must be fair and objective, citing the specific business needs of the company. Refusal may not violate any of the nine grounds prohibited under the Equality Act.

**11. Flexible work scheduling**

Encourage employers to adopt flexible work schedules that accommodate employees' remote working arrangements, allowing for a better work-life balance and increased productivity.

**12. Training for managers**

Provide training and guidance for managers on effectively managing remote teams, including communication strategies, performance evaluation, and fostering collaboration in a remote work environment.

**13. Health and safety considerations**

Ensure that employers have measures in place to address health and safety concerns related to remote working, as stipulated in the Health and Safety Authority's *Occupational Safety and Health Guidance on Remote Working*.

**14. Regular review**

Conduct regular reviews of the remote working policies and practices to identify areas for improvement, adapt to changing circumstances, and ensure ongoing fairness and effectiveness.

**15. Monitoring and privacy**

Employers should make employees aware of any monitoring of devices, why monitoring occurs, and what the information is used for. Employer monitoring must be reasonable and balanced with the employees right to privacy.





# Conclusion

The issue of working time has become a key topic in global discussions surrounding the future of work. This is driven by various factors, including apprehensions about the impact of new technologies on employment, debates on equitable distribution of productivity gains from technological advancements and new work arrangements, concerns regarding the mental and physical well-being of workers as digital technology blurs the boundaries between work and personal life, and the desire for better work-life balance as caregiving responsibilities for both younger and older family members increase.

The right to request remote work is advantageous for Ireland as it enables a more flexible and adaptable workforce. It promotes work-life balance, allowing employees to better manage personal and professional commitments. Remote work can boost productivity by reducing commuting time and providing a conducive environment for focused work. It also expands employment opportunities, attracting talent from diverse locations and facilitating regional development. Embracing remote work aligns with global trends and positions for Ireland as a forward-thinking and attractive destination for both local and international professionals.

Ultimately, the right to request remote work enhances well-being, productivity, and the competitiveness of Ireland's workforce and economy.

Fórsa welcomes the opportunity to submit guidelines for an effective Code of Practice for requesting remote work. We hope to see future consultations and considerations for those employees that are not on typical contract hours or employments, so that eventually nearly all workers and employers in Ireland can choose to adopt a form of remote or flexible working arrangement and enjoy the benefits of doing so.





# References

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