



**Chambers
Ireland**
Advancing business together

Chambers Ireland submission to the Workplace Relations Commission on the Code of Practice on the ‘Right to Disconnect’

January 2021

Chambers Ireland is the state’s largest business representative network. We are an all-island organisation with a unique geographical reach; our members are the chambers of commerce in the cities and towns throughout the country – active in every constituency. Given the importance of local economies to our members, and member businesses, Chambers Ireland’s perspective is unique within the Irish business community – we seek to support thriving local economies and recognise the diversity of business environments that exist across the cities and regions of the country.

Drafted in correspondence with our Chamber Network and associated policy fora, Chambers Ireland is pleased to have the opportunity to make this submission to the Workplace Relations Commission on the Code of Practice on the ‘Right to Disconnect’. Our submission makes recommendations on the ways the sort of issues that a new Code of Practice should give guidance on, reference to existing examples of best practice and broader recommendations on wider legislative reform that might be required. These recommendations include the need to re-contextualise existing rights and obligations when it comes to working-time and the right to disconnect. This must be paired with an effective public awareness campaign. We also include a recommendation to the WRC on the necessity of providing sufficient training for both management and employees in this area, and an informative communications campaign to ensure adequate take-up in workplaces across all sectors.

Introduction

Due to increased digitalisation and the rising accessibility of new technology, flexible working options are becoming a visible feature of the Irish workforce and, increasingly, an expectation from employees. Increases in commuting distances to workplaces, the availability and cost of housing, transport, childcare and eldercare are just a selection of the reasons behind why we are focusing on this area. Chambers Ireland has advocated for the development of a national remote and flexible working policy that is family, age, and disability friendly to actively encourage increased labour activation, improving health, well-being and productivity across

all sectors and enterprises, and has subsequently welcomed the recent publication of the new National Remote Working Strategy.

The wider context of this consultation has been driven by the fact that the Covid-19 pandemic, and its work-related restrictions, has forced a large proportion of the workforce to transform spaces in their homes into makeshift offices, resulting in the line between work and home life blurring considerably. This has renewed the debate around the extent of existing rights for workers to disconnect when they are ‘off the clock’, and whether new legislation might be required.

COVID-19 and Remote Work

COVID-19, the onset of a global pandemic and the national decision to lock-down parts of the economy in response to the virus, had an overnight impact on the number of companies who were facilitating working from home. At this point, it is important to make the distinction between working in a flexible, supported way (which includes remote working), and working at home during a global health pandemic.

Technology enabled many workplaces to keep operating, however the circumstances in which businesses transitioned to was far from ideal. Many workers did not have access to appropriate workspaces or equipment. Indeed, working families who could not avail of childcare had to manage a working day while also caring for children. While the circumstances many businesses operated in over the past number of months were challenging, lessons can be learned.

The Western Development Commission conducted a survey during April and May, which looked to understand the employee experience of remote working. This research noted that while the experience of remote working was broadly welcome, some challenges were identified.

For example;

- Not being able to switch off from work
- Harder to communicate and collaborate with colleagues and co-workers
- Poor physical workspace
- The challenge of juggling childcare with work commitments

The inability of workers to “switch off” has shone a light on the phenomenon of “digital burnout”, as the boundaries between work and home life become blurred, and as businesses operate in many time-zones as part of a globalised economy. In response to this, some jurisdictions have implemented a formal “right to disconnect”.

It is the view of Chambers Ireland that rather the introduction of new regulation, there needs to be a new emphasis on existing rights on obligations with respect to working time. Feedback from members has noted that over-regulation could have the potential to negate the positive work-life balance impacts that flexible working can provide. Further, it could undermine the ability of businesses and employees who are navigating multiple time-zones to make choices about how to manage the working day and working time.

However, the possibility of unreasonable, or unlawful, expectations on employees to remain engaged in work related communications outside of regular working hours does need to be addressed, and it is our view that this can be best dealt with under existing legislation, rather than new regulations. The introduction of a Code of Conduct, as has been tasked with the Workplace Relations Commission, will be a welcome resource and tool for employers and employees. Such a Code of Conduct should include guidelines on recommended protocol for workplace communications and advice on how to introduce such protocol. This guidance should be paired with a campaign directed at the business community and wider workforce to establish and enforce best practice norms that are suitable for a more digitised economy and way of working.

We suggest that the WRC look to existing tools and guides. For example, one of our member Chambers, Dublin Chamber, has published a Smarter Working Guide which gives a level of guidance on best practice around maintaining communications and respecting the right to dis-engage from work messages. Within the recent report on remote working, published by the Western Development Commission and the Whitaker Institute, companies interviewed as part of the research explained how the ensured employee well-being was monitored and respected as part of remote working.¹ In particular, how a culture of respect was fostered with regard to communications between members of different teams, who may be working different hours.

Further, AIB, in consultation with the FSU, introduced a “Right to Disconnect” Protocol in 2020.

AIB Case- Study

In the summer of 2020, AIB agreed with the FSU to implement a Right to Disconnect Policy. The logic was to re-emphasise the importance of employee health and wellbeing and ensuring we have guiding principles for a work/life balance in AIB.

The policy included guidance on scheduling meetings, the use of email, and suggestions for making working from home easier.

¹ See case studies from EmployFlex, Togan Labs and MHP Solicitors- <https://westerndevelopment.ie/wp-content/uploads/2020/12/Expert-Group-Remote-Working-Report-2020.pdf>

Meetings:

- *Schedule all meetings during normal working hours, avoiding lunchtime where possible. Respect people's time by only inviting them to meetings where they play an active role and have something to contribute and block out time in your schedule to manage how much virtual communication you have each day.*

Emails:

- *There is an expectation that staff disconnect from work email on evenings, weekends, and during Annual Leave and only check or send emails during normal working hours.*

If it suits employees to send mails outside working hours, they are encouraged to;

- *send the mail with a signature disclaimer at the end of it along the lines "I am currently working flexibly – so whilst it suits me to send this email now, I do not expect a response or action outside your own working hours"; or*
- *use the "delay send" options and set it to a specified time on the next closest working day.*

AIB's policy also included advice for staff on how to best organise the working day, including recommendations to properly schedule and coffee breaks and lunch breaks, reminders to move about, to include outdoor or physical activity in the day, and when on leave, to put an Out of Office notification on.

Communications and Training

Remote and hybrid working is a new workplace reality. Through the National Training Fund, Government should target investment in training for line-mangers and employers on how to implement a wide range of training on remote, flexible and hybrid working. A manager will need to learn the skills to manage a team remotely just as much as an employee needs to learn how to work remotely. It is a completely different way of working, which needs a proper structure. Training should also aim to specifically address the 'Right to Disconnect', including that this is a mutual right where open channels of communication in relation to discussions regarding workload and time management are encouraged and actively managed.

In addition to this, engaging in a communications campaign with the business community to establish and enforce best practice norms that are suitable for a more digitised economy and way of working would be very worthwhile. A set of universal guidelines on workplace communications would be best suited to avoiding rigid definitions and parameters as businesses within each sector will have different requirements, working hours, etc. Examples of best practice communications and management protocols for the 'Right to Disconnect' should be made available to businesses as part of a national strategy for remote working.

Lastly, both customer and client expectations in respect of receiving responses outside of normal office hours should be effectively managed. The introduction of email footers, as has

been introduced by AIB, and automatic 'out of office' responses that highlight that employees are not required to respond outside working hours would be a worthwhile consideration in this regard.

Conclusion

The workplace has evolved dramatically for many employers because of the Covid-19 pandemic and associated workplace restrictions. For some workplaces, the past ten months have irreversibly re-structured working life. As we have set out previously and has been illustrated by the current realities, any such policy will need to be a living document, the contents of which will clearly depend on the organisation, its clients, its employees and their needs.

Adequate training for management and employees would enable a culture shift in how people should interact during their working day or working week.

It is also important to highlight that any new regulations or guidance that is introduced as part should be applied in a way that is cognisant of the needs of small businesses. The Code of Conduct should be easy for entrepreneurs and SMEs to navigate and implement as large companies.

Lastly, we highlight the opportunity to engage with private sector business representation and believe this to be instrumental to facilitate fully representative discussions of future pathways and actions that are informed via ground up engagement. We emphasis the value of consultations and welcome all future opportunities to engage on this and associated topics.