

# **Public consultation on guidance for remote working**

## **Submission from Fórsa**

**to the**

**Department of Business, Enterprise and Innovation public consultation**

**7<sup>th</sup> August 2020**

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## Summary of main points

- Fórsa carried out a survey of its members' opinions on remote working in July 2020. With 4,335 (mostly public service) respondents, this is by far the largest survey of workers' attitudes to remote working in Ireland.
- Like earlier studies, the Fórsa survey showed strong support for remote working among employees. Earlier studies, including research conducted by the Department of Business, Enterprise and Innovation (DBEI) in 2019, also show strong support for remote working among employers, including on grounds of enhanced productivity.
- There are robust public interest reasons – including in the areas of climate action and regional development – for promoting remote working.
- While existing Department of Business, Enterprise and Innovation (DBEI) guidance predates the Covid-19 public health emergency, the experience of remote working during the pandemic has changed attitudes and will likely accelerate an existing trend towards the expansion of remote working.
- Large numbers of public servants worked remotely during the Covid-19 emergency on foot of specific official public health advice and the instructions of their managers. Prior to that, the public service generally lagged behind the private sector in terms of remote working.
- The Fórsa survey found that 86% of respondents would be interested in working remotely in the future, with two-thirds (67%) saying they would “very definitely” be interested in home working.
- Over 80% of those who are interested in remote working expressed a preference for a hybrid arrangement in which they work some time at home and some in the workplace.
- Seven in ten respondents in the Fórsa survey reported a positive or very positive experience of home working during the Covid-19 crisis. This figure fell to 66% for workers aged under 30, suggesting that younger workers face particular challenges in home working. This phenomenon is likely to present in all sectors of the economy.
- Concerns expressed by respondents, which broadly mirrored those surfaced in the 2019 DBEI employees' survey, related to four broad areas: disconnection from the workplace; work encroachment on home life; costs and/or the appropriateness of home work space; and health and safety issues.
- The experience of remote working during the emergency has demonstrated that many roles can be carried out remotely in ways that are productive, cost-effective and attractive to employers and their staff.
- Reduced exposure to Covid-19 was the most frequently-cited (81%) positive factor associated with home working during the pandemic, followed by improved work-life

balance (70%), reduced commuting time (67%), and increased work flexibility (55%). Half of the respondents said home working increased their productivity.

- Almost half (45%) of respondents with children of school-going age said home working during the pandemic made it easier to manage childcare.
- The biggest negative aspect of home working cited by respondents was the lack of interaction with colleagues. Almost half said they found it harder to find out what was happening at work, and a quarter said management communicated poorly.
- The second most cited disadvantage (51%) of home working was difficulty in separating work from home, while almost half (48%) said that they incurred costs that they would not incur in work.
- Balancing work and caring responsibilities was cited as a problem by 40% of respondents with school-aged children, compared to 22% of the total sample.
- One third of respondents said their employer had not provided the necessary equipment, and a significant minority (12 %) said they did not have access to essential technology like broadband.
- The need to address barriers to increased remote working, including the lack of a clear legislative framework and awareness of supports, has become more pressing. Legal rights to request access to remote working and other forms of flexible work are stronger in a range of comparable countries.
- Just 28% of respondents to the Fórsa survey said a manager had asked them about their home working set-up from a health and safety perspective.
- While there are health and wellbeing benefits associated with home working, health and safety concerns include the potential impact of loneliness and isolation on mental health, working time issues, and potential negative physical impacts arising from inadequate workstations and eyestrain.
- The Health and Safety Authority (HSA) has no specific ongoing guidance on remote working, and treats remote workers as ‘lone workers’ for health and safety purposes. This approach is inadequate.
- While the health and safety aspects of remote working must be addressed adequately, every effort must also be made to reconcile this imperative with the general desire among employers, employees and the Government to expand remote working.
- The issue of risk assessment is crucial to the future of remote working. Any requirement to physically inspect every remote working site would inhibit the expansion of home working and alternative approaches are required.
- Although a majority of workers would welcome an element of home working, it should not be compulsory. Employees should have the right to refuse home working without having to give their reasons.

- Fair access to remote working emerged as a major concern for respondents to the Fórsa survey. When asked to rank union priorities, this was cited by the largest number (70%) of respondents, with over a third (36%) ranking it as their top priority.
- Official guidance should require employers to set objective criteria for identifying the work and functions to be performed remotely and the process for the selection of staff to be allocated to home working arrangements.
- Employers who introduce remote working should put reasonable accommodation measures in place for staff with disabilities.
- Employers see increased productivity as one of the main advantages of remote working. The management of productivity and performance should be applied equally to staff regardless of whether they work remotely or in their employer's premises.
- If used, surveillance products and practices must respect employees' rights to privacy and comply with the transparency provisions of data protection legislation.
- Employees working remotely should benefit from the same rights, guaranteed by legislation and collective agreements, as comparable workers at the employer's premises. Safeguards are required to ensure that remote working is not seen as an opportunity to undermine employment relationships.
- Remote working should be defined and understood in terms of the location where work is undertaken, not the nature of work or the employment relationship.
- It would be problematic, in terms of health and safety, workplace connection, and (potentially) employment rights, if employers were to require new hires to work remotely on a full-time basis.
- While remote working can facilitate flexibility in the management of working and personal time, it is not possible to simultaneously work at home while caring for children or others on a sustained basis.
- Fórsa supports expanded legal rights for all employees to request flexible working arrangements in the light of experience in Europe and elsewhere.
- Employees should not be required to provide equipment necessary for their work. Employers are responsible for providing, installing and maintaining the equipment necessary.
- Additional household costs accrue from home working, and these are likely to be higher in the winter months. This was not addressed in temporary arrangements introduced during the Covid-19 emergency, but a different approach is required for long-term arrangements where employees are based at home for significant periods of work time.

## Summary of recommendations

1. A sustained leadership effort to expand remote working in the civil and public service, including the development of specific guidance and advice to managers, is required.
2. DBEI advice on keeping remote workers connected with their workplace should be expanded in revised guidance and addressed in civil and public service agreements and guidance.
3. The Government should explore, through dialogue with representatives of employees and employers, the benefits of enacting a legal right to request remote working and other forms of flexible work arrangements.
4. The Government should explore, through dialogue with representatives of employees and employers, enhancements of the existing legislative framework surrounding remote working with the intention of amending it where necessary.
5. The Health and Safety Authority (HSA) should be tasked with drawing up specific guidelines in respect of home/remote working.
6. The HSA and social partners should explore the challenges of risk assessment in the context of remote working to seek solutions that will protect the health and safety of workers without impeding the expansion of home working. The Irish authorities should consider European best practice on this aspect of the issue, and discuss it with the relevant EU authorities.
7. Official guidance should include specific advice to help HR and line managers ensure compliance with health and safety and working time legislation. This should include specific measures relating to pregnant women, young workers, and workers with disabilities.
8. The HSA should be tasked with drawing up specific guidance on the mental health aspects of remote working.
9. Official guidance should reinforce the principle that home working must not be compulsory.
10. Employers should set objective criteria for identifying the work and functions that will be performed remotely, and the process for the selection of staff to be allocated to home working arrangements. In consultation with worker and employer representatives, the Government should consider underpinning this principle in legislation.
11. Official guidelines should make it clear that employers should communicate regularly with remote workers, and include them in collective workplace activities.
12. As a general rule, staff who work remotely should routinely spend some time in the workplace.

13. Official guidance should be clear that any surveillance products and practices must respect employees' rights to privacy and comply with the transparency provisions of data protection legislation.
14. Official guidance should emphasise that employees working remotely must benefit from the same rights as comparable workers based at the employer's premises. In consultation with worker and employer representatives, the Government should consider underpinning this principle in legislation.
15. New staff recruited to pre-existing roles should not be required to work remotely as a condition of employment, as this could disadvantage them, displace prevailing terms and conditions, and increase insecure work in the economy. In consultation with worker and employer representatives, the Government should consider underpinning this principle in legislation.
16. Advice on the issue of managing caring responsibilities should be developed in official guidance on remote working, with a view to maximising the flexibility available to employees with caring responsibilities.
17. As a general rule, remote workers should not be required to provide work equipment as this is an employer responsibility. Official guidance should cover the issue of insurance of employers' equipment located in employees' homes on foot of agreed home working arrangements.
18. The Revenue Commissioners should be asked to review its approach to tax-free allowances for costs associated with home working in light of recent experience.
19. Data Protection Commission and National Cyber Security Centre (NCSC) guidelines in respect of remote working should be kept under review and updated where necessary.
20. The issue of remote working should be considered within the broader context of policy debates about the scope for reducing working time and, as appropriate, in collective bargaining.

## Introduction

Fórsa welcomes the opportunity to make this submission to the Department of Business, Enterprise and Innovation's (DBEI) public consultation on guidance for 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<sup>1</sup>.

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 (commercial and non-commercial), private companies (predominantly in aviation and communications) and section 39-funded organisations in the community and voluntary sector.

Fórsa members work in extremely diverse professions, occupations, grades and work settings, and their employment-related experience of the Covid-19 public health crisis varied accordingly. Many thousands continued to attend workplaces to maintain essential services. These included health workers and health and social care professionals, staff in social protection, border control, agriculture, the Revenue Commissioners and other civil service departments, many local authority workers, and staff in telecoms and postal services. Others quickly adjusted to working remotely, and the union published guidance on remote working in June 2020<sup>2</sup>. Others (predominantly in aviation) have depended on State income supports, and have experienced wage reductions and/or reductions in working time. Some are facing lay-offs and redundancy.

This submission is informed by the DBEI's December 2019 publication *Remote work in Ireland: Future jobs 2019*, which says remote work is increasingly viewed as having "the potential to widen the talent pool across Ireland, stimulate regional growth, lessen accommodation pressures in cities and support the transition to a green economy."<sup>3</sup>

*Remote work in Ireland: Future jobs 2019* also outlines factors influencing the attitudes of employees towards remote working, of which increased flexibility and reduced commuting hours are the most prominent for workers in both the public and private sectors. The publication also outlines factors influencing the attitudes of employers towards remote working, of which the most prominent are gaining access to a broader pool of talent by responding to employee demand for flexible working arrangements, promoting retention, increasing productivity, and improving cost-effectiveness while engaging in more sustainable ways of working.

This Fórsa submission is also informed by the DBEI's overall objective in the current consultation, which is "to inform the delivery of guidance on remote working for both employers and employees." We also note the specific objectives set out in the department's invitation for submissions<sup>4</sup>, which include increasing the uptake of remote working, addressing key areas of concern for employers and employees, and shaping public policy on remote working.

The DBEI's existing guidance predates the Covid-19 pandemic, which saw a massive and rapid expansion of remote (primarily home) working in all sectors of the economy, with more than a third of employees working from home at the peak of the pandemic. While it is

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<sup>1</sup> See *When your home is your workplace: A remote workers' guide to your employment rights*, ICTU, July 2020.

<sup>2</sup> *Working at home: Staying safe, connected, healthy and productive*, Fórsa, June 2020.

<sup>3</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.6.

<sup>4</sup> *Public consultation on guidance for remote working*, DBEI website, 9<sup>th</sup> July 2020.

important to draw a distinction between the attitudes of employees and employers during an emergency of this seriousness, scale and singularity, there is no doubt that the experience of remote working during the pandemic has changed attitudes, and will likely accelerate an existing trend towards the expansion of remote working and broaden it into more sectors of the economy.

It is, therefore, useful to reflect on the experience of remote working between March and July 2020. To that end, this submission also draws on a recent opinion survey of Fórsa members, which was commissioned by the union and carried out by Amarách Research in July 2020. The survey, completed by well over 4,000 Fórsa members, elicited information on workers' experience of remote working during the pandemic, their attitudes towards remote working in the future, and their concerns associated with remote working.

### **Remote working in the civil and public service**

Prior to the onset of the coronavirus emergency, when large numbers of public servants worked remotely on foot of specific official public health advice and the instructions of their managers, the public service generally lagged behind the private sector in terms of remote working. This is broadly reflected in the DBEI survey, which found that 63% of private sector respondents self-identified as remote workers, compared to 27% of public servants. This needs to be addressed to avoid the public service suffering long-term disadvantage in terms of access to talent and improved productivity, which are the primary benefits of remote working cited by employers in the DBEI survey.<sup>5</sup> The DBEI report also says that cultural factors in large organisations can work against the expansion of remote working – again placing these employers at a potential disadvantage.<sup>6</sup>

It should be noted that some of the largest and most essential innovations delivered by civil and public service organisations during the Covid-19 emergency were provided through a blend of workplace-based work and remote-working. These included the roll-out of the pandemic unemployment payment by the Department of Employment Affairs and Social Protection, and the roll-out of the temporary wage subsidy scheme by the Revenue Commissioners. In both cases, thousands of complex public queries were handled quickly and efficiently by staff working on a remote basis.

Given the potential for expanded remote working to contribute to important public policy objectives in areas like rural development, economic performance and climate action, it is imperative that public service organisations, which collectively employ over 320,000 people, work to expand the adoption of remote working patterns. Fórsa therefore recommends a sustained leadership effort to expand remote working in the civil and public service. This should include the development of specific guidance and advice to managers, drawn up in consultation with employee representatives, in each of the main sectors of the civil and public service.

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<sup>5</sup> There is no evidence that remote working has impaired productivity in any sector of the economy.

<sup>6</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.9, p.21, and p.45. Note that figures on the number of employees remote working encompass staff with very different working patterns, and that the DBEI warns that the figures are likely to overstate the incidence of home working as remote workers may have been more likely than others to complete their open survey.



## **Fórsa membership survey**

Amarách Research carried out a survey of Fórsa members' opinions on remote working during a five-day period in July 2020. With 4,335 respondents, this is by far the largest survey of workers' attitudes to remote working in Ireland. The findings can usefully be compared with the 2019 DBEI survey, with the caveat that the two studies were conducted on either side of the Covid-19 emergency. Although a clear majority (59%) of the DBEI study respondents worked in the private sector, the findings of the two surveys are remarkably similar in most respects.

The Fórsa survey sought information on workers' experience of remote working during the pandemic, attitudes towards remote working in the future, and information about concerns associated with remote working.

Some 74% of respondents were female and 25% were male. This gender breakdown is representative of Fórsa's membership, but does not mirror the total Irish workforce. The regional breakdown of respondents was: Dublin (28%), Leinster (26%), Connaught/Ulster (26%), and Munster (20%).

Almost all (98%) of the respondents work in the civil and public service. However, with the exception of coronavirus-specific factors, the attitudes of respondents were broadly similar to those of employees surveyed by the DBEI in 2019 (see below).

Some 91% of respondents had worked remotely during the pandemic, with 11% having returned to a workplace setting at the time of the survey. Taken on a Fórsa-wide (or public service-wide) basis, these figures are not fully reflective of the experience of the pandemic period, when large numbers of public servants remained in workplace settings. Fórsa members with experience of remote working were clearly more likely to complete the survey than those without; a similar pattern is present in the results of the DBEI's open survey of 2019<sup>7</sup>.

### **Fórsa membership survey: Remote working – interest and concerns**

The survey found that 86% of respondents would be interested in working remotely in the future, with two-thirds (67%) saying they would "very definitely" be interested in remote working.<sup>8</sup> Over 80% of those who are interested in remote working expressed a preference for a hybrid work arrangement in which they work some time at home and some in the workplace.

At 67%, the preference for some element of home working among those who continued to attend the workplace during the Covid-19 emergency is lower than the average, but still very significant.

Survey respondents were given a list of issues of potential concern associated with future remote working, and were asked to rank five in order of importance.<sup>9</sup>

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<sup>7</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.20, 22.

<sup>8</sup> The desire for some form of home working exceeds 90% for respondents aged 30-50.

<sup>9</sup> The final option was 'other'. Only four respondents ranked this among their five choices.

There was a wide range of responses, with no issue attracting more than 16% of ‘first preferences’ when ranked by respondents. However, the responses can be broadly grouped into four areas<sup>10</sup>:

***Concerns about being disconnected from the workplace***

- Miss the social aspects of work (cited by 59% of respondents)
- Less informed of workplace developments (cited by 39% of respondents)
- Excluded from important work activities (cited by 33% of respondents)
- Contribution will be less valued (cited by 28% of respondents)
- Reduced access to training/career development (cited by 19% of respondents)

***Concerns about encroachment of work into home time***

- Harder to disconnect from work phone/emails (cited by 42% of respondents)
- Work will intrude on family/personal life (cited by 30% of respondents)

***Concerns over costs and appropriateness of home workspace***

- Increase household bills and other costs (cited by 38% of respondents)
- Employer won’t provide necessary equipment (cited by 26% of respondents)
- Inadequate space at home (cited by 15% of respondents)

***Health and safety concerns***

- Mental health will be adversely affected (cited by 19% of respondents)
- Concern about health and safety issues (cited by 13% of respondents)

Responses to concerns about being disconnected from the workplace also surfaced in the stakeholder consultations that informed the 2019 DBEI guidance, demonstrating that these are economy-wide concerns that are not confined to the civil and public service<sup>11</sup>. Fórsa recommends that the DBEI advice on this matter be developed and expanded in the revised guidance that follows the current consultation. These concerns should also be addressed in civil and public service agreements and guidance.

Similarly, the concerns over the encroachment of work into home and family time, expressed strongly in the Fórsa survey, featured at a similar intensity in the DBEI stakeholder consultations and employee survey, in which almost 47% cited “switching off” and “avoiding overwork” as the most common challenges of working remotely.<sup>12</sup> *Remote work in Ireland* also cites Eurofound research, which referenced risks like prolonged working hours, lack of sufficient rest and the increased likelihood that employees will continue to work when sick.<sup>13</sup>

Concerns over the costs associated with home working and health and safety issues are addressed later in this submission.

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<sup>10</sup> 9% of respondents also said lack of childcare would make it hard to work at home. Note that only 40% of respondents had school-age children.

<sup>11</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, pp.48-49.*

<sup>12</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.39, p.42.* This publication also cites (on p.39) Eurofound and International Labour Organisation (ILO) research, which argues that “while remote work offers more flexibility, autonomy and productivity, it is also associated with longer working hours, work intensification and interference with personal life.”

<sup>13</sup> *Ibid, P.9, p.42.*

## **Fórsa survey: Experience of remote working during the Covid-19 emergency**

Some 59% of respondents working at home during the coronavirus emergency<sup>14</sup> did so in a communal living space, while just over a quarter (27%) had a designated office space at home. Those aged under 30 were less likely to have a designated office space; those living outside Dublin were more likely to have one. While almost three-quarters (74%) said their home was suitable for remote working, less than a quarter (24%) of those aged under 30 agreed. This clearly suggests that younger respondents face particular challenges in the context of home working; a phenomenon that is likely to present in all sectors of the economy.

On a similar note, 40% shared their home working space with another adult for some or all of the time. Again, age and regional factors are significant with more than half (54%) of those aged under 30, and 53% of those based in Dublin, sharing home work space.

Disturbingly, fewer than three-in-ten respondents (28%) had someone in a management position discuss their home working set-up from a health and safety perspective. In practical terms, this is perhaps understandable in the context of the speed and scope of the move to remote working in an emergency situation. But, for most respondents, home working would have been in place for almost four months at the time of the survey. During this period, the Health and Safety Authority (HSA) issued specific guidance that advised employers of their obligation to consult with staff over various safety risks associated with temporary home working, including the suitability of the workspace and equipment.<sup>15</sup>

### *Positive aspects of remote working*

Overall, seven in ten respondents (71%) reported a positive or very positive experience of home working, with this figure falling to 66% for workers aged under 30.

The most frequently-cited (81%) positive factor associated with home working was that “it reduces my potential exposure to Covid-19.” This is a significant finding in the current circumstances, but may become less instructive in the long-term.

The next three most cited positive factors expressed were improved work-life balance (70%), reduced commuting time (67%), and increased work flexibility (55%).<sup>16</sup> Around a half (49%) said home working increased their productivity. These findings broadly align with those of the 2019 DBEI survey, which placed increased flexibility and reduced commuting times as by far the two leading motivating factors – both for those who currently work remotely and those who don’t – in both the public and private sectors.<sup>17</sup>

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<sup>14</sup> Note that, unlike the 2019 DBEI survey, the Fórsa survey did not differentiate between home working and other forms of remote working. This was because of the particular circumstances of the coronavirus pandemic response. However, the DBEI survey also suggests that home working is by far the most common form of remote working at present (see page 27). Similarly, the Fórsa survey did not measure the frequency of remote working as, by and large, the union’s members were obliged to work from home on a full-time basis during the emergency.

<sup>15</sup> [FAQs for employers and employees in relation to home-working on a temporary basis \(COVID-19\)](#), Health and Safety Authority website, 2020.

<sup>16</sup> Compared to the average (67%) a significantly larger number of respondents aged under 30 (88%) cited reduced commuting time as a positive factor.

<sup>17</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, pp.38-39.

Almost half (45%) of respondents with children of school-going age (who made up 40% of the total number of respondents) cited “easier to manage childcare” as a positive factor of home working.

### *Negative aspects of remote working*

By far the biggest negative aspect of home working cited by respondents was the lack of interaction with colleagues. This was cited by 69% of respondents, with almost a quarter (23%) saying it was the primary drawback. Almost a half (47%) said they found it harder to find out what was happening at work while working remotely, with a quarter (24%) saying communication from management was poor.

The second most cited disadvantage of home working (51% of respondents) was that “it is harder to separate work and home,” while almost half (48%) said that they incurred costs that they would not incur in work. Trying to balance work and caring responsibilities was cited by 40% of respondents with school-aged children (compared to 22% of the total sample).

One third said their employer had not provided the necessary equipment, while almost a fifth (18%) feared remote working would inhibit their career development. A significant minority of 12% said they did not have access to essential technology like broadband (for 5% this was the most significant negative aspect of home working).

A tenth of respondents saw no downside to remote working.

### **A stronger legislative framework**

The DBEI’s publication *Remote work in Ireland: Future jobs 2019* lists a range of ‘key implications’ – for guidance to employers and employees, data gathering and collaboration between State agencies – that arise from its research and public consultation. These cover a broad range of issues and concerns including equality, health and safety, employment conditions, the right to disconnect, data protection, training, and hub infrastructure.<sup>18</sup>

Fórsa generally agrees with the conclusions of the DBEI report, but believes they can and should be broadened and developed to reflect the experience of the coronavirus emergency, more recent research, and issues that are emerging as stakeholders – including Government, State agencies and representatives of employees and employers – contemplate the expansion of remote working in a post-emergency environment.

The DBEI guidance correctly notes the pre-pandemic growth of remote working, and its increasing popularity among employers and employees. The experience of remote working during the Covid-19 emergency has demonstrated that very many roles can be carried out remotely in ways that are productive, cost-effective and attractive to employers and their staff. It is no surprise that the appetite for remote working has subsequently increased among workers and employers alike.<sup>19</sup>

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<sup>18</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, pp.52-55.

<sup>19</sup> A recent survey by the Institute of Directors in Ireland found that only 12% of business leaders thought all their staff would return to workplaces once Covid-19 restrictions are eased, with 40% predicting an equal mix of staff working in the office and remotely in future. <https://www.iodireland.ie/news-events/news/nearly-1-8->

This submission has explored some of the attractions for employees. The DBEI also conducted a survey of employers, which revealed a range of benefits of home working from a management perspective. Chief among them were improving access to talent by responding to employee demand for more flexible working, improved productivity, and cost effectiveness. Most of the advantages of remote working identified by employees and employers are also public policy objectives, and remote working also has the potential to contribute to wider societal objectives in areas like climate action, economic activity, and enterprise, and more balanced regional development and growth.

The need to address barriers to increased remote working has become more pressing. The DBEI report correctly identifies a potential need for legislation and a stronger public policy, saying that: “It is arguable that the historical lack of legislation or policy on remote work has effectively left the responsibility for its uptake with employers and managers” and that the lack of a clear framework and awareness of supports “has presented a barrier to remote work.”<sup>20</sup> Fórsa agrees with this assessment.

Legal rights for employees to request access to remote working and other forms of flexible work exist, in different forms, in a range of countries comparable to Ireland, including the UK, the Netherlands, and New Zealand. Finland is preparing legislation that would give most full-time workers the right to decide where they work for at least half their working hours.<sup>21</sup>

Fórsa recommends that the Government explores, through social dialogue with representatives of employees and employers, the benefits of enacting similar rights in Ireland, along with other enhancements of the existing legislative framework surrounding remote working with the intention of amending existing relevant legislation where necessary and appropriate.

## **Review of health and safety guidance**

The Fórsa survey exposed deficits in the management of health and safety in the context of remote working during the pandemic, with just 28% of respondents reporting that a manager had asked them about their home working set-up from a health and safety perspective. This is likely to have been reflected in the broader economy. While it is perhaps understandable in the context of the speed and scope of the move to remote working in the emergency, it demonstrates the need for the health and safety issues specific to remote working to be addressed – in terms of policy and official guidance – quickly and in greater detail.

While there are many health and wellbeing benefits associated with home working, including higher morale and reduced stress leading to lower absenteeism,<sup>22</sup> specific concerns have emerged, particularly in the potential impact of loneliness and isolation on the mental health of workers, working time issues, and potential negative physical impacts arising from inadequate workstations and eyestrain.

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[business-leaders-believes-all-staff-will-be-back-their-companies%E2%80%99](#), Institute of Directors in Ireland, 18<sup>th</sup> June 2020.

<sup>20</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.52.

<sup>21</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, pp.35-37.

<sup>22</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.9.

The existing DBEI guidance gives a useful summary of the current Health and Safety Authority (HSA) approach to remote working. It briefly outlines employees' and employer's responsibilities, including the employer's responsibility to conduct risk assessments. And its research reveals a reluctance among employers to set down written remote working policies because of concerns over possible litigation against the background of "a lack of clarity over occupational health and safety requirements." A large number of DBEI employee survey respondents – 49% in the private sector and almost 60% in the public service – said their employer had no written policy, or that they were unaware of one<sup>23</sup>.

The report also notes that the HSA has no specific ongoing guidance on remote working, and effectively treats remote workers as 'lone workers' for health and safety purposes.<sup>24</sup> This approach is inadequate, and Fórsa recommends that the HSA be tasked with drawing up specific guidelines in respect of home/remote working, in consultation with employer and employee representatives. Such guidelines should include advice on the organisation of working time and the need to disconnect from work phone calls and digital communications.

While the health and safety aspects of remote working must be addressed adequately, every effort must also be made to reconcile this imperative with the general desire among employers, employees and the Government to expand remote working. The issue of risk assessment – and the specific question of whether employers might be obliged (under Irish and EU legislation) to undertake physical risk assessments of every remote work site – is crucial to the future of remote working.

Any requirement to physically inspect every remote working site would represent an unwelcome intrusion into home life for many employees, and would risk putting the affordability of expanding home working beyond many, if not most, employers. Alternative approaches – including establishing check lists (for staff and managers) on relevant issues like setting up workstations, employer guidance, manager and worker training, and frequent line management contact with employees on health and safety issues – should be explored by the HSA and social partners. Fórsa also recommends that the Irish authorities consider European best practice on this aspect of the issue, and raise the question with the relevant EU authorities, which are currently reviewing relevant EU legislation with a view to updating it.<sup>25</sup>

Fórsa further recommends that official guidance to employers should include specific advice to help HR and line managers ensure compliance with health and safety and working time legislation, including specific measures relating to pregnant women, young workers, and workers with disabilities. And it should set out practical steps that managers and employees should take to ensure that staff disconnect from work phones and digital devices including during periods of annual and other leave.

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<sup>23</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.46 and p.47.*

<sup>24</sup> The HSA published specific guidance during the Covid-19 emergency, but this was explicitly presented as relating to "temporary" home working. See [FAQs for employers and employees in relation to home-working on a temporary basis \(COVID-19\)](#), Health and Safety Authority website, 2020.

<sup>25</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.32.* See also the reference to Dutch health and safety legislation on P.36.

## *Mental health*

Respondents in the Fórsa survey were more likely to cite mental health concerns (19%) than broader health and safety issues (13%) as potentially negative aspects of remote working. Even larger numbers of respondents expressed fears over being disconnected from the workplace. Over 12% of respondents to the 2019 DBEI employee survey cited mental health concerns as “the biggest challenge of working remotely.”<sup>26</sup> Earlier surveys have shown that workers are reluctant to raise concerns about mental health with their line managers.<sup>27</sup>

Fórsa therefore recommends that the HSA be tasked with drawing up specific guidance on the mental health aspects of remote working, including recommendations for countering mental health hazards, in consultation with employee and employer representatives.

## **Criteria and choice**

Fórsa supports the statement on the ‘voluntary nature of teleworking’ in the existing DBEI guidance, when it says that remote work should be voluntary for the worker concerned<sup>28</sup>. The union’s survey found that a large majority of respondents favoured an element of remote working. But remote working is not a long-term option for a significant minority of workers, because of their housing constraints, home circumstances, health condition or personal situation. Fórsa therefore recommends that official guidance should reinforce the principle that home working should not be compulsory, regardless of the existing role or function of a particular employee.

Employees should have the right to refuse home working, without having to give their reasons, which could include extremely personal circumstances (including, for example, domestic violence issues), to their employer. Employers and trade unions should be encouraged to reach agreements that reconcile this with business needs, including through the right to transfer to workplace-based roles if an employee’s existing role is earmarked for remote working. Furthermore, staff who agree to work remotely should also have the option to opt-out of the arrangement at a future date.

Fórsa also supports the principle that, “if a business engages in remote working, it should be open and available to all employees and the grounds for refusing their request must be objective and valid.”<sup>29</sup> When asked to rank the issues that Fórsa should prioritise, fair access to remote working emerged as the primary concern. It was cited by 70% of respondents, with over a third (36%) ranking it as their top priority. The union therefore recommends that official guidance should advise employers who introduce remote working that they should set objective criteria for identifying:

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<sup>26</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.42.*

<sup>27</sup> For example, a 2019 Fórsa survey of over 1,600 health workers found that over 60% said they would be uncomfortable discussing a mental health issue with their line manager, while over a third (37%) said they would be “very uncomfortable” doing so. Only 7% said they were very well supported at work while experiencing mental health difficulties, while 38% said they were either very or moderately unsupported. <https://www.forsa.ie/health-workers-report-mental-health-issues/>, 22<sup>nd</sup> May 2019.

<sup>28</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.48.*

<sup>29</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.49.*

- The work and functions that will be performed remotely
- The process for the selection of staff to be allocated to home working arrangements
- Procedures for staff to apply to transfer into remotely-performed roles, and to allow them to do so subject to qualifications, experience, suitability and business needs
- An appeals process for staff refused remote working opportunities
- Reasonable accommodation measures for staff with disabilities.

Fórsa further recommends that the Government and social partners collectively give consideration to the merits of underpinning these and similar measures in legislation. (See section on ‘a stronger legislative framework’ from page 12 above).

### **Maintaining a connection to the workplace**

Concerns about remote working leading to a disconnection from the workplace were the most evident in Fórsa’s membership survey and also surfaced strongly in the stakeholder consultations that informed the 2019 DBEI guidance, (See ‘Fórsa membership survey: Remote working – interest and concerns’ on page nine above).

Fórsa recommends that official guidelines make it clear that employers must communicate regularly with remote workers, keep them informed of significant workplace developments, consult them on appropriate matters, and include them in briefings, team meetings and other collective workplace activities. There is also a responsibility on managers to ensure that all staff have access to training, career development and promotional prospects regardless of whether they work remotely, in the workplace, or a blend of the two.

The Fórsa members’ opinion research strongly suggests that a hybrid model – featuring elements of both remote and workplace working – would be the most popular, and would also bring most benefit to employers. As a general rule, the union recommends that staff who work remotely should routinely spend some time in the workplace. This would ensure a connection to managers and colleagues, and act as a mechanism to prevent their exclusion from training and collective work activities like team meetings and staff briefings.

DBEI’s survey research established that employers see increased productivity as one of the main advantages of remote working. The management of productivity and performance is a management responsibility that must be applied equally to staff regardless of whether they work remotely or in the employer’s premises. Aside from its intrinsic value, this would build confidence in the contribution of remote working among all managers and staff, regardless of where they work.

Fórsa welcomes the short statement on privacy in the current DBEI guidance, which calls for regulations on monitoring systems.<sup>30</sup> The union recommends that this section be expanded in revised guidance, which should also address the application of formal performance management systems (where they exist) to remote workers. Official advice should be clear that any surveillance products and practices must respect employees’ rights to privacy and comply with the transparency provisions of data protection legislation.<sup>31</sup>

<sup>30</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.48.*

<sup>31</sup> <sup>31</sup> See *When your home is your workplace: A remote workers’ guide to your employment rights*, ICTU, July 2020.



## Employment conditions

Fórsa welcomes the reference to employment conditions set out in the existing DBEI guidance, which says: “Employees working remotely benefit from the same rights as comparable workers at the employer’s premises. These rights are guaranteed by applicable legislation and collective agreements.”<sup>32</sup> Fórsa recommends that this principle be included in all official guidance on remote working.

Both the existing DBEI guidance and ICTU’s guide for remote workers stress that contracts of employment should be amended to reflect any relevant alterations to place of work and related working arrangements. Fórsa agrees with this advice, and with ICTU’s recommendation that this is done following a trial period, to ensure that changed arrangements work in practice.<sup>33</sup>

However, this should not be seen as an opportunity to otherwise alter contracts of employment to the detriment of employees. Fórsa recommends that strong safeguards are in place to ensure that remote working is not seen as an opportunity to undermine the employment relationship. Remote working should be defined and understood in terms of the location where work is undertaken, not the nature of work or the employment relationship. Fórsa recommends this a matter for consideration in a review and strengthening of the legislative framework around remote working (see ‘A stronger legislative framework,’ from page 12 above).

The existing DBEI guidelines suggest that “remote working arrangements may be required as part of a worker’s initial job description.”<sup>34</sup> It would be problematic from a health and safety and ‘workplace connection’ perspective if employers were to require new hires to work remotely on a full-time basis (see ‘review of health and safety guidance, from page 13 above, and ‘maintaining a connection to the workplace’ from page 16 above).

If anything, new recruits tend to require more workplace support as they are likely to lack the familiarity with systems, procedures, organisational structures and reservoirs of corporate knowledge that enable more experienced staff to work productively on a remote basis. It would be a particular concern if new recruits were hired on a probationary or trial basis without access to these supports.

Fórsa also has substantial concerns that a widespread requirement for new staff to work remotely when recruited to pre-existing roles. This could lead to a two-tier workforce with displacement of prevailing terms and conditions, the weakening of employment relationships, and an increase in insecure work associated with the so-called ‘gig’ economy. This is a significant public policy concern, and Fórsa recommends that legislative safeguards be considered as part of a review and strengthening of the legal framework around remote working (see ‘A stronger legislative framework,’ from page 12 above).

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<sup>32</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.48.*

<sup>33</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.49. When your home is your workplace: A remote workers’ guide to your employment rights, ICTU, July 2020, p.5.*

<sup>34</sup> *Remote work in Ireland: Future jobs 2019, Government of Ireland, December 2019, p.48.*

## Childcare and other caring responsibilities

The DBEI employee survey found that remote working is “not regarded as a sustainable solution to affordable childcare” with few respondents (4.5%) citing childcare costs as a factor influencing their attitude to remote working.<sup>35</sup> It notes that the cost of childcare is not a primary driving factor for remote work, but adds that non-cost related benefits of remote working can result in better work-life balance and increased family time for working parents. Such benefits are likely to include increased flexibility over working time and reduced commuting.

Fórsa agrees with this analysis, which is supported by the union’s membership survey in which almost half (45%) of the 40% of respondents with children of school-going age cited “easier to manage childcare” as a positive factor of home working.

Many working parents had to balance home working with childcare and home schooling responsibilities at the peak of the Covid-19 emergency. This burden was likely to have fallen more heavily on women workers, who also bear a disproportionate responsibility for other caring responsibilities.

However, it is not possible to simultaneously work at home while caring for children or others on a sustained basis. This is not to say that increased flexibility in the management of working and personal time, which can be facilitated through remote working, is not significantly helpful to working parents and those with other caring responsibilities. It should be noted that a 2019 EU directive on work-life balance gives carers and parents of children aged under eight years a right to request flexible working arrangements – a right that unions want extended to all workers<sup>36</sup>.

Since the Government ordered the closure of schools and crèches in mid-March 2020, DPER has advised civil and public service employers to facilitate home working for working parents whose childcare arrangements have fallen through. The department had also been advising employers to consider offering flexible working arrangements – including home working – to staff with other caring responsibilities on a case-by-case basis. New DPER guidance, published in late July, suggests that this facility could be withdrawn from 24<sup>th</sup> August<sup>37</sup>. This proposed change is based on the expectation that schools will re-open at the end of August and that crèches and childcare facilities will also be operating again. Fórsa is concerned that a significant number of childcare facilities will remain closed when the advice to facilitate flexible working arrangements is withdrawn. This is likely to create substantial problems for working parents in the public service and across the economy.

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<sup>35</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.9 (and see also p.41). Note that the report does not distinguish between respondents with and without childcare responsibilities or school-age children, though it does say that this answer was “more prevalent among women.”

<sup>36</sup> *When your home is your workplace: A remote workers’ guide to your employment rights*, ICTU, July 2020, p.14

<sup>37</sup> [Guidance and FAQs for public service employers during Covid-19](#), Department of Public Expenditure and Reform, updated 30<sup>th</sup> July 2020.

While the significant issue of availability of affordable childcare and other care is beyond the scope of this public consultation, Fórsa recommends that official guidance on remote working is developed, in consultation with representatives of employers and employees, to maximise the flexibility available to employees with caring responsibilities in all sectors.

The union also supports ICTU's call for expanded legal rights for all employees to request flexible working arrangements in the light of experience in Europe and elsewhere.

### **Provision and maintenance of equipment**

Employees should not be required to provide equipment necessary for their work and Fórsa therefore endorses the existing DBEI guidance when it says that “the employer is responsible for providing, installing and maintaining the equipment necessary for the remote worker.”<sup>38</sup> This is important in terms of performance, costs, health and safety, security, data protection and reasonable accommodation. For the most part, only a limited amount of equipment – and certainly not more than is provided in a workplace setting – is likely to be required, but public service and other employers should plan for a mix of remote and workplace-based operations and scope their procurement accordingly. Fórsa recommends that updated official guidance should also cover the issue of insurance of employers' equipment located in employees' homes on foot of agreed home working arrangements.

### **Bearing the costs of home working**

The Irish Congress of Trade Unions (ICTU) is seeking a mandatory daily allowance for home workers to cover the business costs of working from home.<sup>39</sup>

The Fórsa survey reveals a mixed experience of the personal financial effect of home working, with 49% of respondents saying they spend less on transport and other costs, while 48% say they incur extra household costs (such as heating) that they would not incur at work. Of course, it is possible for both statements to be accurate as workers could save in some areas and spend more in others. And it may reflect the different circumstances of respondents, perhaps with younger workers saving more on commuting costs and older workers with dependents living at home bearing more of the household costs associated with remote working.<sup>40</sup>

Nevertheless, additional household costs do accrue from home working, and these are likely to be higher in the winter months. Fórsa believes a different approach is required to temporary home working imposed as part of an emergency response to a crisis, as opposed to long-term arrangements that see employees based at home for a significant portion of work time.

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<sup>38</sup> *Remote work in Ireland: Future jobs 2019*, Government of Ireland, December 2019, p.49.

<sup>39</sup> *When your home is your workplace: A remote workers' guide to your employment rights*, ICTU, July 2020, p.4.

<sup>40</sup> The survey also found respondents aged under 30 were much more likely to reference reduced commuting time as an advantage of home working (88%) than the average (67%).

This is particularly pertinent when home working leads to sustained costs savings for employers as, in such cases, some of the cost burden of work activity would effectively be passed from the employer to the employee.

In the absence of a mandatory economy-wide allowance, this is an issue that will likely be addressed at employment level. In the meantime, Fórsa recommends that the Revenue Commissioners be asked to review its approach to tax-free allowances in light of recent experience.

It should be noted that no allowance has been paid by civil and public service agencies to staff working remotely during the Covid-19 emergency.

### **Data protection and cyber security**

The Data Protection Commission (DPC) has issued comprehensive guidance on protecting personal data while working remotely, which covers devices, emails, cloud and network access, and paper records.<sup>41</sup> The National Cyber Security Centre (NCSC) has produced guidelines on protecting home workspaces against cyber-related threats.<sup>42</sup> Fórsa recommends that such advice be kept under review and updated where necessary, and included in official advice on remote working.

### **Remote working in the broader context of working time**

The DBEI consultation and, indeed, the reinvigorated debate about remote working in Ireland, is welcome.

Working time is emerging as one of the central issues in international debates about the future of work. This is due to a range of factors including concerns about the impact of new technologies on jobs and debates about how best to share the productivity gains presented by rapid technological developments and new forms of work organisation, concerns for the mental and physical health of workers as digital technology increasingly enables work to encroach on personal time, and ambitions for improved work-life balance in an age where caring responsibilities – for younger and older relatives – are increasing.

Historically, workers have benefited from improvements in technology through reduced working time and, in current debates, this has been expressed in terms of the potential for a ‘four-day week.’ Fórsa is an active participant in the ‘Four Day Week Ireland’ initiative.<sup>43</sup>

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<sup>41</sup> [Protecting data when working remotely](#), Data Protection Commission, 12<sup>th</sup> March 2020.

<sup>42</sup> [NCSC security advisory: Working from home security advice](#), National Cyber Security Centre, 8<sup>th</sup> April 2020.

<sup>43</sup> <https://www.forsa.ie/4-day-working-week-new-supports-and-trademark-announced-for-companies-that-introduce-shorter-working-week/>, Fórsa website, 26<sup>th</sup> September 2019.

In terms of both public policy and the practical application of increased flexibility over working time, Fórsa recommends that the issue of remote working should be considered within the broader context of policy debates about the scope for reducing working time (particularly in the context of the workplace impact of artificial intelligence and other new technologies) and, as appropriate, in collective bargaining.

ENDS