



# Resistance

## Future Workspaces

Navigating pushback,  
culture shift, and new  
ways of working



This insights report is part of a series. It does not constitute legal advice.

In an ideal world, there's perfect and permanent synergy between employer and employees. But in the real world – where businesses are made up of many different personalities, cultures, and priorities – the impact of the pandemic has affected everybody uniquely.

This can be more keenly felt in the return to work, than perhaps it ever was during the national lockdowns. As people discovered another way to do their job, they have developed new preferences and, in many respects, proved that they can be productive in those scenarios. But for all our responsibility as employers to respect the needs of our employees, we also have a right for our expectations to be met too.

Finding the balance has become a more individualised exercise, with company-wide policies often challenged, and exceptions often requested. There are moral and legal considerations, which must be handled carefully in a one-by-one approach to working practices.

**In this chapter, we'll show you how we, and our clients, are navigating employees' resistance to adapting to new ways of working and new workspaces.**

**Michael Stokes, Partner, Head of Employment and Immigration**

**M:** 07807 747 455 | **E:** [mstokes@hcrlaw.com](mailto:mstokes@hcrlaw.com)





**Our clients say:**  
**Is there a divide or a disconnect,  
 between your home and office workers?**

**RESISTANCE 1 - Disconnection**

**Harriet Ward, Group HR Director for Ecclesiastical Insurance UK:**

We chose working principles rather than contractual changes and a high level of trust with colleagues, allowing them to choose how best to structure their day. We encourage our people to have open and honest conversations with their managers, as we recognise what might work for one team won't necessarily work for another. If you mandate one set of rules across the board then you inevitably create an inflexible and complicated jigsaw. We also acknowledge one week could look different to the next and it's not a binary choice - work from home or from the office, it's about broader flexibility. There's so many different places and environments in which you can work (customer sites, other offices in our Group etc.). So we give colleagues the choice to be able to work where they need to be to deliver the best outcomes for the work they are doing.

Modern workplaces need to be destinations that colleagues actively seek out. They should be attractive workspaces with a vibrant atmosphere, so people want to come into the office. It's important for our existing colleagues but also in attracting talent to come and work with us. We have a fantastic new head office which was built to be a welcoming, healthy and productive place to work so colleagues like being here. We also talk a lot about well-being and we promote the benefits of working collaboratively for your well-being. Working from home can sometimes be isolating whereas our offices are about the power of human connection. The aspiration is that, in some of our smaller offices you can recreate the feel of our bigger ones. That will take time, but we want to show what the right environment can do to help the work experience, so we don't have to end up convincing anyone to come in. Instead, if you provide the right environment and opportunities for collaboration and connection the balance between time in the office with time in other work settings becomes positive, natural, and not forced.

PwC offered a cash incentive of **£1,000** per person, to encourage staff back to the office, promoting an 'empowered flexibility' model in which employees are expected to spend **40%-60%** of their time "co-located with colleagues."

The Guardian

**Our offices are  
 about the power of  
 human connection.**

**We say:**

**Catherine Mitchell, Partner**

In businesses where some roles can be done remotely but others cannot, a significant disconnect is a risk. Very often this occurs across lines between traditional blue collar and white collar roles, where those on the shop-floor must be on site, whereas their colleagues in the office upstairs can take a more hybrid approach. Without careful management, this threatens the culture of the whole business.

Some employers are bridging the gaps which result by setting up 'anchor days' when everyone is expected to be on site and benefit from time with a range of colleagues. Some also ensure that formal training and networking takes place on those days, to build back some of the culture lost by remote working.



**Catherine Mitchell**  
**M:** 07384 110 600  
**E:** cmitchell@hcrllaw.com



## RESISTANCE 2 - Relocation

### Our clients say:

One of my hybrid employees wants to relocate from London to Herefordshire. They want to exclusively work from home and rarely attend the office. I've been happy for them to WFH to date, but previously they could always come into work when needed and at short notice – which now won't be possible. What can I do? Can I dismiss them?

Whilst money talks, it's clear that flexibility and some work autonomy are high up on the agenda for many employees

37% of UK employees said they were likely to move to a new location in the next year because they can now work remotely.

Microsoft

## We say:

Ellis Jessica Walby, Associate



Whilst work life balance is an increasing 'requirement' on many wish lists, it's unlikely to be the sole factor of a relocation request.

London's average house price of £737k is over double Herefordshire's £342k. With the UK interest rate rising, most workers find themselves needing to make their money go further. This is predictably a key driver for staff in the 'family' demographic, with a need for extra space.

Retaining top talent is progressively challenging for employers. Whilst money talks, it's clear that flexibility and some work autonomy are high up on many employee agendas across many sectors. Relocation flexibility may be critical in retaining key individuals, and so it's worth giving this type of proposal careful consideration if the individual plays a vital role in helping make your business a success.

An employer cannot force the resignation of an employee and, broadly speaking, an employee cannot unilaterally dictate where they work. If an employee wishes to relocate and the business cannot (or does not) agree to this, an employer's options will, in part, depend on what is written in the employment contract.

Communication is key. An employee should be aware of the potential consequences (including dismissal) should they proceed with a relocation that has not been agreed with their employer.



Ellis Jessica Walby

M: 07741 039 870

E: ewalby@hcrlaw.com





## Our clients say:

We have some employees who insist on working from home, especially younger employees who don't seem to recognise that they need interaction and supervision in order to develop. What can we do – can we force them into the office?

62% of Gen Z & 56% of Millennials want to work from home at least three days a week

but

58% of Gen Z & 49% of Millennials said they need face-to-face time to carry out their work effectively

Nationwide & Ipsos

“

**Harriet Ward, Group HR Director for Ecclesiastical Insurance UK:**

You sometimes hear of companies which think their colleagues try to 'hide' at home, but this can often be rooted in a manager's insecurity. For some managers there were naturally a few worries initially because some teams have previously worked in very traditional ways.

During the pandemic that changed with unprecedented speed - for colleagues they found a new way of working that they wanted to protect, and our managers developed their skills to manage remotely. Ultimately no one wanted to go back to exactly how it was before.

For us, trust built quickly and as soon as you have that trust with your people, you can work with colleagues to create a new way of doing things which is mutually beneficial. We don't really have colleagues who try to hide, instead we have colleagues who are motivated to do well because they are trusted.

”

## We say:

“

**Rachel Roberts, Partner, Deputy Head of Employment and Immigration**

Most of the time, flexible working supports work-life balance, whilst still allowing for teams to work effectively. But sometimes businesses run into practical issues that impact the working life of both managers and workers.

For example, many junior workers prefer remote work, whilst not appreciating the importance of colleague interaction. More senior workers understand that face-to-face time is essential for learning and development, and that they themselves can only work remotely because they've already got the experience.

But with more junior workers on-site to learn, this calls for senior workers being on-site too, to teach. Does that mean nobody gets to work from home?

No, it just means you need clear policies. Having rotas to show who's working when and from where, as well as an established set of activities which support effective team-working, can help align key exercises. Team meetings, brainstorming, and socials being scheduled for days when everyone is expected in the office will promote a team identity and cohesion. Most importantly of all is a clear, established, and regular line of communication between a supervisor and their team – adapting this on a person-by-person basis when and where necessary.

”



**Rachel Roberts**

**M:** 07725 242 980

**E:** rroberts@hcrlaw.com



## RESISTANCE 4 - Trust

**50%** of working mums had flexible working requests partially or fully denied and

**86%** who did work flexibly said they faced discrimination or disadvantage as a result.

TUC

### Our clients say:

I have no objection to flexible working generally, but I know that some people in my team just can't be trusted to work as effectively from home. Can I say yes to some staff working flexibly/remotely and no to others?

## We say:

**Matthew Gillett, Solicitor**



The short answer is yes. But it's important to follow the correct process in coming to your decision.

If your business doesn't have its own policy on flexible working requests, you should follow the Acas Code of Practice. It states that if receiving the same request from two individuals, you don't have to provide the same response, as long as you have a valid business reason based on sound evidence.

Acas provides an exhaustive list of business reasons, among them being that flexible working will have a detrimental impact on either the quality or performance of an employee's work. Therefore, if there were genuine grounds to believe that flexible working would have a negative effect on employee A's work, but that employee B could be trusted to work as normal flexibly, then you would be within your right to allow one and not the other. Remember that you will need to demonstrate that you've actively considered the request and can explain the basis of the given business reason if you cannot agree.

It is important to manage this process with sensitivity, so as to avoid accusations of favouritism or discrimination. Make sure to consider every request carefully and methodically and then provide a detailed written response, clearly setting out the reasons for your decision. Draw upon examples of the employee's past behaviour that suggest that flexible working would have a negative effect on their work output. It's also useful to schedule a one-to-one meeting to discuss your decision. The better you convey the justification for rejecting their request, the less open you leave yourself to criticism.

If appropriate, it may be helpful to agree to a 'trial' process whereby, just as an example, you may agree that the employee can work from home one day every fortnight to see what effect this has. If their work isn't negatively impacted, then you can gradually extend the parameters of this flexibility whilst assessing their performance. Coming to such agreements/compromises shows that you are willing to give employees a fair chance and that you are not simply denying their requests out of hand.



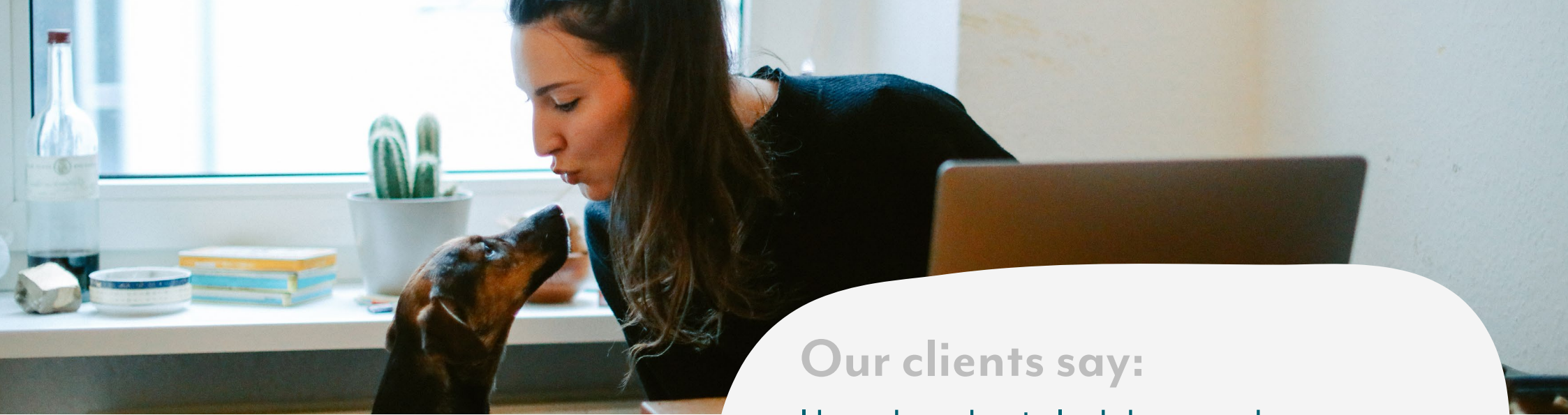
**Matthew Gillett**

**M:** 07570 683 639

**E:** [mgillett@hcrlaw.com](mailto:mgillett@hcrlaw.com)

**Avoid accusations of favouritism or discrimination**





### Our clients say:

I bought a dog in lockdown and want to work from home full time to look after her. Is this a good reason to request to work from home and, if so, can my employer say no?

Yes, employers are still hearing this as a reason to work from home, three years on from lockdown



## RESISTANCE 5 - Relocation

UK Google searches for “puppies for sale” increased **3x** between December 2019 and May 2020, before falling back to normal levels post-pandemic.

Google Trends

Employees with at least 26 weeks’ continuous service are currently eligible to make one request for flexible working in a 12-month period

## We say:

**Katherine Dakers, Associate**



If an employee’s contract formally states they can work from home full-time, their employer would need the employee to agree to any changes – like returning to the office. If working from home full-time isn’t contractual, but rather circumstantial like in the case of the pandemic, employers are within their rights to get the employee back into the office.

Some employers might face push back, including from employees who have recently bought a dog and want to continue working from home, to enable them to care for their pet. If an employee wants to make different arrangements in respect of the way they work, they could consider submitting a flexible working request.

Employees with at least 26 weeks’ continuous service are currently eligible to make one request for flexible working in a 12-month period. They have a right to have their request considered, as opposed to a right to actually working flexibly. Flexible working can take a variety of forms, including the location where they actually work, or the hours or days they work.

Employers are obliged to deal with such a request in a reasonable manner, notifying the employee of their decision within 3 months (unless agreed otherwise). If the business cannot accommodate a flexible working proposal, it can refuse such a request. The request can be refused for a number of reasons, for example, where this would have a detrimental impact on quality and performance. However, as the Acas Code of Practice on flexible working requests advises, it is important that this decision is based on fact, can be evidenced clearly, and not based on personal opinion. It may be helpful to agree to have a trial period to assess if the proposed arrangement works in practice.



**Katherine Dakers**

**M:** 07715 060 293

**E:** kdakers@hcrclaw.com





## Our clients say:

One of our employees is originally from India and wants to work there for an indefinite period because her mother is ill. What do we have to do?

## We say:

**Rowena Kay, Legal Director**



A recent survey suggests that almost a third of companies allow employees to work remotely outside the UK. In companies where remote and agile working is accepted and encouraged, it can be tempting to see working from abroad as no different to working from a home office. Unfortunately, however, working abroad means that employees are engaging with different legal systems, and different tax systems. Employers who merely see the question as “can my employee deliver on their job duties from abroad?” may be storing up problems for the future.

The first issue to consider is immigration. In this question the employee is originally from India. Assuming they are an Indian national, they are likely to have the right to return to the country and work. But it is still important to check that long term absence from the UK will not impact on any immigration status they hold here. In other scenarios, the individual may simply not have the legal right to work in another country.

Payroll taxes are also an important consideration. Most countries are understandably keen to receive the taxes on those working in their jurisdiction. Whilst it is fine to continue with UK PAYE during a business trip, if an employee is going to be based abroad for a long period, you should take local advice on when you must run a local payroll. This can also have corporation tax implications. Accidentally creating an unregistered place of business in India and potentially creating corporation tax liabilities also needs to be considered (especially if the employee based there is working on local clients and/or sales).

The next question is data transfer. If the employee is working with personal data, you should take specialist advice on compliance with data protection rules. You will also need to check software licensing to be sure that everything the employee needs can be deployed to them within the terms of your licence.

Finally, there are the employment law considerations. How will you ensure that your employee can properly discharge their duties, and receive appropriate supervision/work with their team? Will timezones impact – the significant time differences with India may mean the employee agreeing to work anti social hours if live collaboration is important, and you should consider carefully how sustainable this is. You are also likely to need to comply with local employment law in all dealings with this employee, including if you decide to terminate the employment.



**Rowena Kay**

**M:** 07815 160 175

**E:** rkay@hcrlaw.com



## What to do next

We can support you with every aspect of adapting your workspace and employing your people. Our workforce, immigration, employment, and sector specialists are on-hand to help you tackle any legal obstacles in your path:



**Michael Stokes**  
Head of Employment  
and Immigration

**M:** 07807 747 455  
**E:** mstokes@hcrlaw.com



**Catherine Mitchell**  
Partner

**M:** 07384 110 600  
**E:** cmitchell@hcrlaw.com



**Ellis Jessica Walby**  
Associate

**M:** 07741 039 870  
**E:** ewalby@hcrlaw.com



**Katherine Dakers**  
Associate

**M:** 07715 060 293  
**E:** kdakers@hcrlaw.com



**Matthew Gillett**  
Solicitor

**M:** 07570 683 639  
**E:** mgillett@hcrlaw.com



**Rachel Roberts**  
Deputy Head of  
Employment and  
Immigration

**M:** 07725 242 980  
**E:** rroberts@hcrlaw.com



**Rowena Kay**  
Legal Director

**M:** 07815 160 175  
**E:** rkay@hcrlaw.com

## About HCR

We like to ask questions that go beyond our clients' legal challenges.

And we like to build lasting relationships, so that we can get under the skin of a project and advise on both business and personal matters, never sitting on the fence.

The working office affects us as individuals and employers, and as a firm with ten offices and 800 staff, we're keen to explore the challenges around workspaces and employees, to understand what the future looks like. For us and for our clients.

Our employment and immigration team provides expertise on all aspects of employing your people, from contracts and polices to settlement agreements, restructuring, TUPE, grievances, discipline and bullying. They have grown rapidly over the last five years, as they continue to provide great service to hundreds of clients.

Your business is complex and ever-changing. You don't want a bolt-on solution every time you discover a new challenge, you want a partner who understands where you've come from and where you're headed, and who has your best interests at heart.

So we truly partner our clients. We are pragmatic, and we fight your corner as if we were defending our own. Because if we don't, then what's the point?

This project has shown us that employers are still experiencing challenges associated with changes to work arising from the pandemic and lockdowns, in 2023.

And we want to help you tackle them.

Join the conversation



## Birmingham

T: 0121 454 0739  
F: 0121 455 7211

## Cambridge

T: 01223 461 155  
F: 01223 316 511

## Cardiff

T: 02922 749 200  
F: 02922 749 201

## Central England

T: 01604 233 233  
F: 01604 627 941

## Cheltenham

T: 01242 224 422  
F: 01242 518 428

## Hereford

T: 01432 349 670  
F: 01432 349 660

## London - International HQ

T: 020 7489 6320  
F: 020 7681 1261

## Thames Valley

T: 0118 911 1206  
F: 0118 900 7874

## Worcester

T: 01905 612 001  
F: 01905 744 899

## Wye Valley

T: 01989 562 377  
F: 01989 561 400