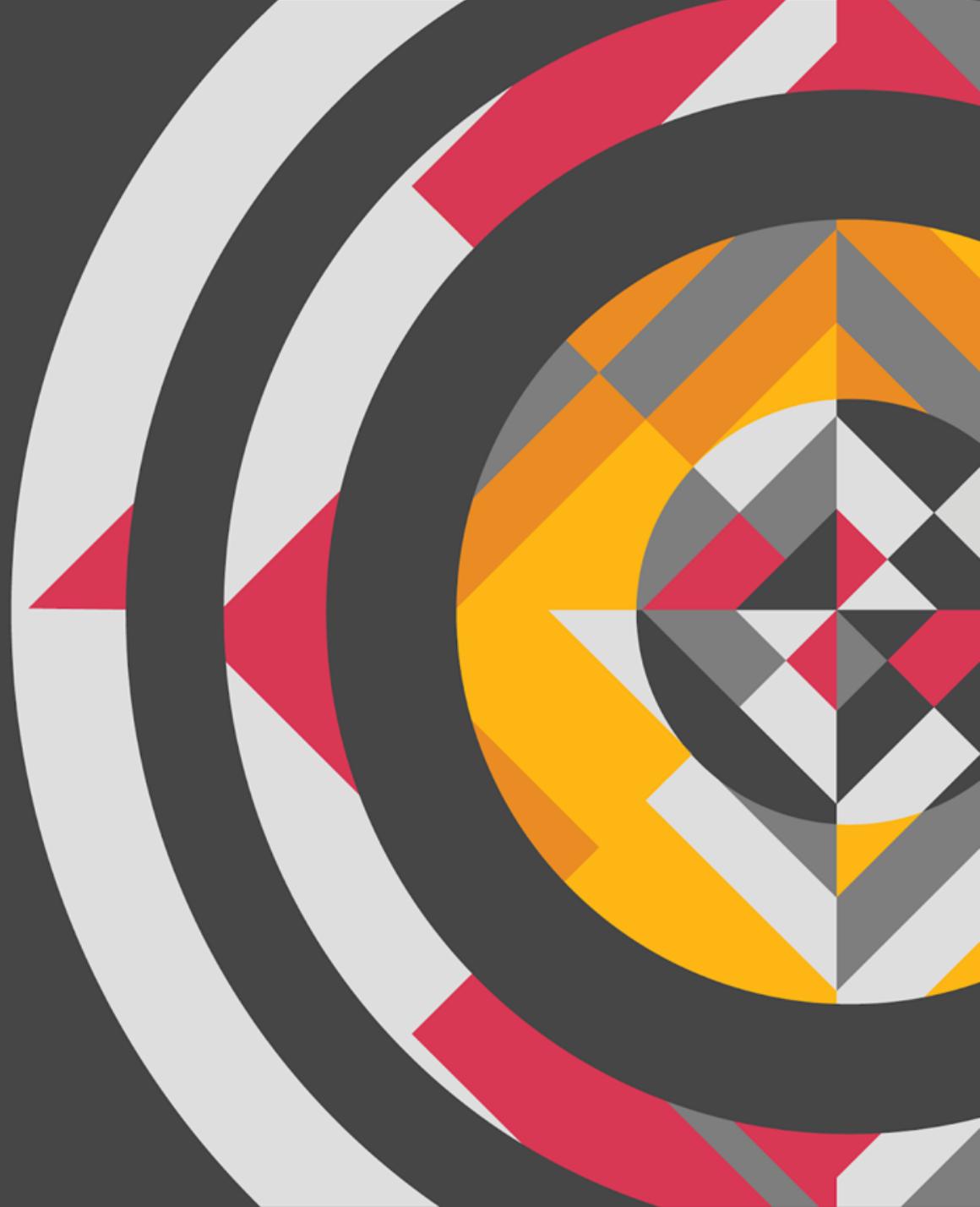


Flexibility, the key to stability

Tuesday, 16 March 2021



PwC Legal
A multidisciplinary law firm





Agenda

01 Introduction

02 Why would we need flexibility?

03 Tomorrow's workforce and how to make the best of it

04 The Return of the Office of the Permanent Exodus?

05 Dynamic work experience

Speakers



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Introduction

Responding to the business impacts of COVID-19

Wave 1

Taking control



Wave 2

Business continuity



Wave 3

Future state



Responding to the business impacts of COVID-19



Polling question 1

In which wave do you currently feel?

1 Wave 1: Taking control

2 Wave 2: Business continuity

3 Wave 3: Future state



Business and Workforce Landscape

External Considerations

Social

Technology

Demographic

Tax / Legal /
Regulatory

Government support
for skills building

What social trends impact our business? How can technological advancements benefit us? How do changing demographics impact availability of talent? What is our corporate tax strategy? How do we structure legal entities? How do regulatory developments impact us? What legal or financial support is provided by authorities for training or job transfer?

What is our Organisational Purpose? What is the business going to look like in the future? What are our competitors doing? What products/services will it offer? What is the profile of its customer base?

Business Strategy

Organisational Capabilities

What is the impact of business strategy on organizational capabilities and skills required? What is my target purpose, values, and behaviors? Which signature capabilities will provide a competitive advantage?

Workforce Strategy

What type of/how many employees do I need – buy, build, or rent? What skills do I need? How am I considering diversity? What do I need to do to execute on the workforce strategy? Where will my people be located? What will my operating model look like?

Workforce Experience & Performance

How do I unleash greater employee productivity? What can I do to increase employee attraction and engagement, and ultimately drive better performance?

Physical & Digital Workplace

How do I optimise worker performance through physical and virtual working? How do we optimise our use of digital technologies to aid collaboration and reduce costs? What physical workplaces meet our business (cost, risk, productivity) needs?

Action Planning & Roadmap

How will we deliver on workforce plan, work environment, and talent strategy? What are the operating model implications? What does the roadmap look like? What change management is required?

Measurement & Monitoring

How do I know my workforce strategy is effective? What tools enable the monitoring of my workforce? What KPIs am I monitoring?



Flexibility
– the key
to stability

Renewed need for flexibility

- The transition towards a dynamic and flexible way of working. Increasing the flexibility could offer a solution to:
 - Attractiveness and retention – employee value proposition
 - Staff members' work-life balance and their private needs
 - Responding to an ever increasing “on demand” business culture
 - Cost efficiency / Mitigating the HR budget



Building blocks of a flexible workforce

Dynamic workforce structure



- Rightsizing
- Review organisation structure
- The right type of collaboration for the right role

Dynamic work environment



- Working from home
- Virtual/remote workforce

Dynamic work experience



- Flexible working hours/schedules
- Individualised reward packages
- Employee well-being
- Education



Dynamic workforce structure

Tailoring your workforce

Rightsizing and choosing the right profiles

The needs of companies are not set in stone but instead they fluctuate.

It is important to scale (either reduce or increase) the workforce to the **appropriate proportion**.

Alternative remedies could be collaborating with temporary agency workers, gig workers or freelancers

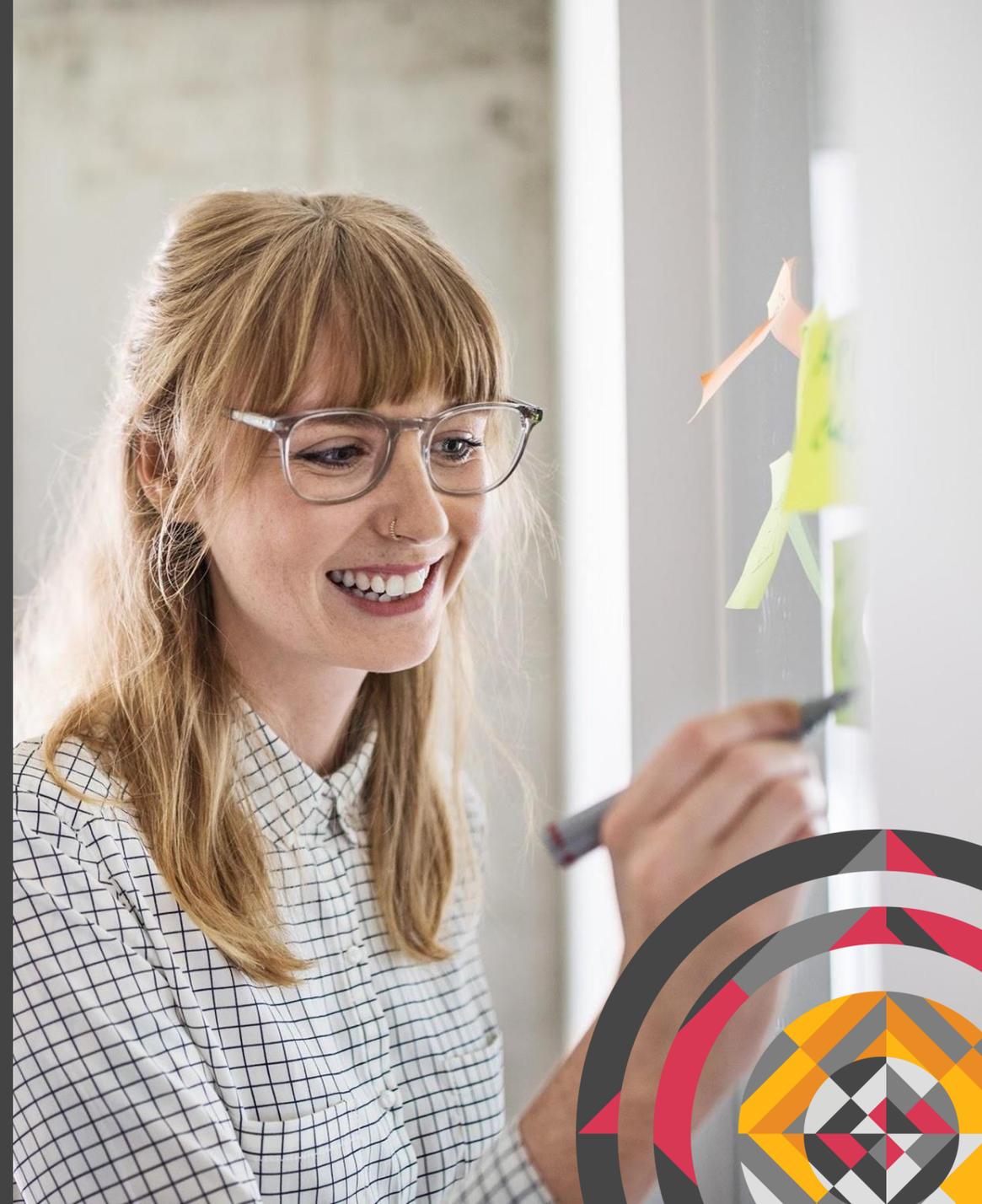
Additionally organisations will the most appropriate profile and **type of professional collaboration** for a certain position.

Elements to consider:

- required involvement and integration within the company
- Project based or long term collaboration?
- Required expertise and experience

Designing the composition

- Self-employed collaborations could be considered for management roles or functions that require a high degree of independence or specific expertise
 - No employers' social charges
 - Collaboration solely governed by the agreement between the individual and the company
- Working with self-employed individuals and freelancers gives rise to more flexibility for the company and for the individual
- Self-employed individuals are not subject to labour legislation (e.g. termination of employment rules and working time)



Pro's and con's

Pro

- + Lower company cost
- + More flexibility in organising the work
- + Less formalities and administrative burden for the company
- + Easier to terminate the collaboration



Contra

- Limited social security coverage for the individual
- Individual will have to arrange formalities himself
- Individual will remain a “third party” to the company and its employees
- Risk of sham self-employment

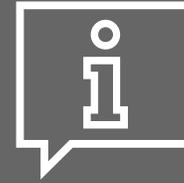


Working with self-employed

- In principle, parties are free to classify their collaboration either as an employment relationship or as an independent agreement
- Main difference between self-employment and employment is the existence of a “link of subordination”. The absence or presence may be determined by the following (general) criteria
 - Intention of the parties
 - Freedom in organising working time
 - Freedom in organising work
 - The ability to exert hierarchical control over the individual
- On industry level additional and more “specific” criteria may be introduced to determine the absence or presence of a “link of subordination”

Attention points

- Written contract clearly and expressly stating the will of the parties
- Individual should be perceived as a service provider by third parties
 - Organisational chart
 - Company website
 - Job title on social media
 - Business cards/email signature
 - ...



- Individual should be perceived as a third party by the company's staff
 - Authority over the individual vs. authority by the individual over the employees
 - Performance reviews
 - Right to “hire and fire”
- Freedom in organising work
 - Absence / holidays
 - Time registration

“

Is our binary model
of employee
versus self-employed
future proof?





**Dynamic
work**

environment:

The Return of the Office
or the Permanent
Exodus?



Work anytime and anywhere

The past few months have shown us that our society and our working environments have strongly evolved – and are still evolving.

It seems we are steering away from the traditional 9-to-5 working pattern and always being in the office.

More and more we are transitioning into a “work anytime and anywhere” world where it no longer matters when and where you work.

Polling question 2

How are you thinking of implementing working from home in the future?

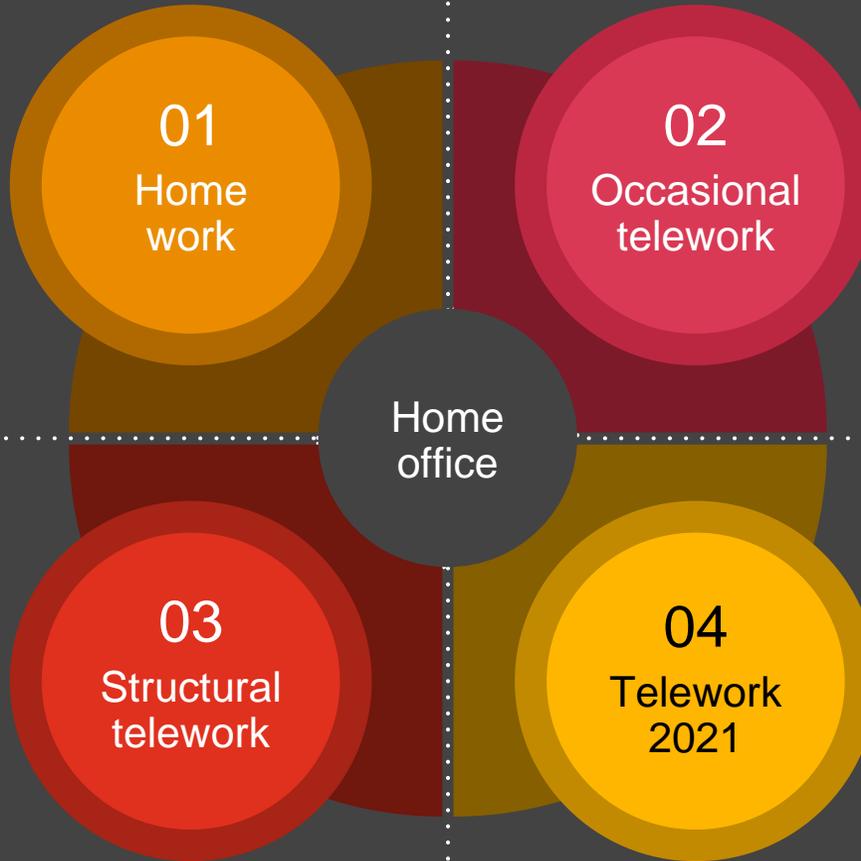
1 100% home

2 50% office / 50% home

2 1 or 2 days a week at home



Employees perform work in exchange for salary under the authority of an employer, in their place of residence or in any other place chosen by them, **without** being under the supervision or **direct control** of this employer.
(Employment contract Act)



Work is performed incidentally and not on a regular basis outside the company location, using information technology (Act on workable and agile work).



Activities are carried out on a regular basis and not incidentally outside the company location, with the use of information technology. CBA 85.



Telework during 2021 – Covid 19
CBA 149





Full time telework or implementation of a hybrid model

Rules of structural telework
must be respected.

- 1 Respect information and consultation obligations with social bodies
- 2 Implement policy on a company level
- 3 Conclude agreement with individual employees
- 4 Cost allowance

Remote working requires a comprehensive approach

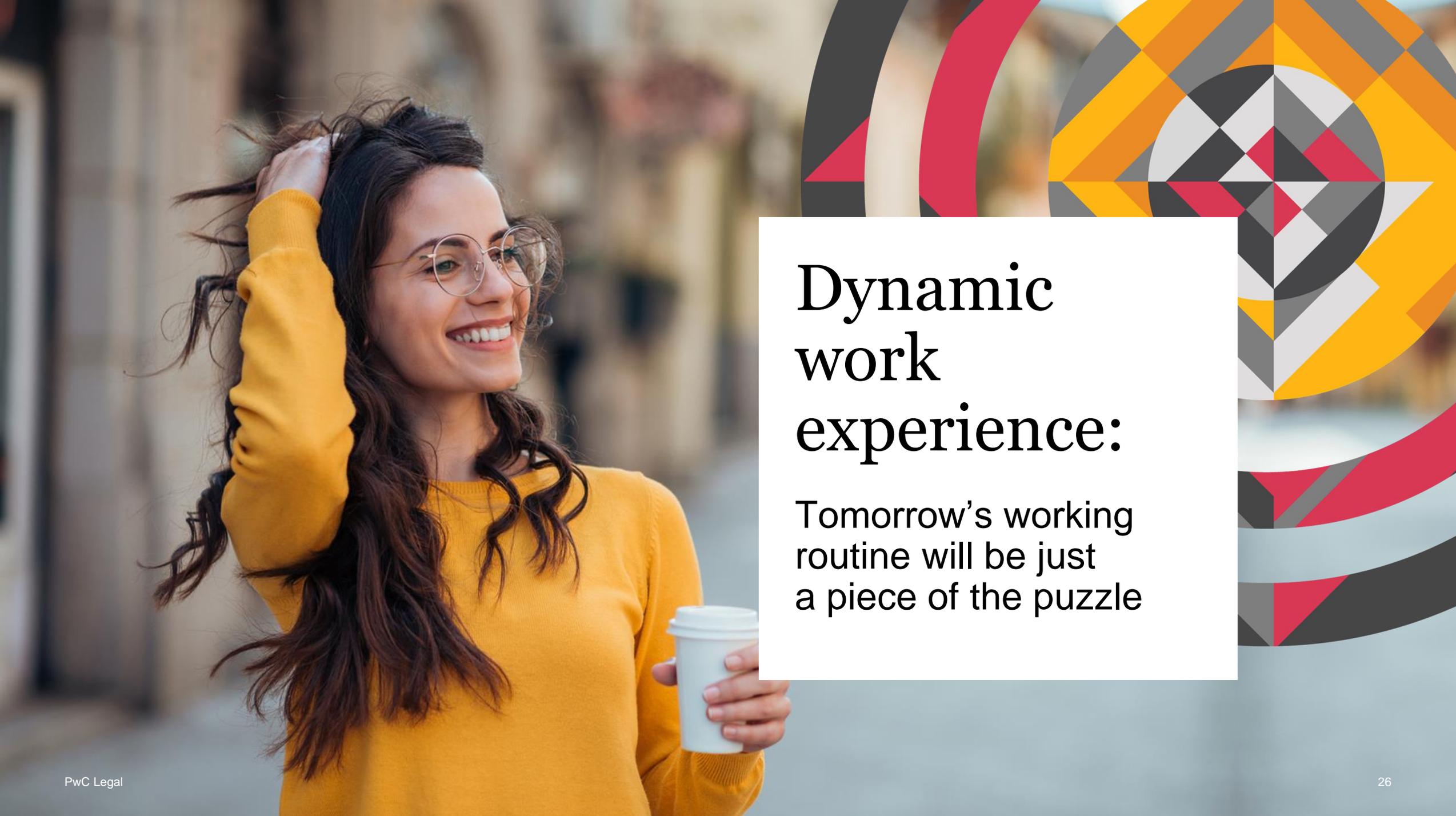
- In a “work anytime and anywhere” mindset it is of course perfectly possible that some employees would (temporarily) relocate to sunnier places abroad
- Rules on structural telework still apply



“

Evolving towards a new unified model of homework in the future?





Dynamic work experience:

Tomorrow's working
routine will be just
a piece of the puzzle

Any future for office hours?

- With employees increasingly working whenever it suits them best in light of private or family needs, the question rises on the relevance of existing working time legislation
- Regardless of the working regime working time is in principle limited to:
 - **9 hours per day**
 - **40 hours per week**
- Working outside of these limits is in principle not allowed and will give rise to overtime payment and/or compensatory rest



Flexible working hours

Gliding working schedule

- Limits: **9 hours** per day / **45 hours** per week
- Fixed periods (employee is at disposal of employer) vs variable periods (employee is free to choose beginning and ending of the day and his breaks)
- Transfer of hours in excess of or below average weekly working hours (**max. 12**)
- Time registration and tracking required
- On request of employee (in some cases)
- Need for company CBA or via Works regulations



Flexible working hours

Small flexibility

- Reference period: max. 1 year
- Increase or decrease working schedules:
 - 2 hours per day (daily limit 9 hours)
 - 5 hours per week (weekly limit 45 hours)
 - Deviating rules on industry level?
- Via Work regulations

Large flexibility

- Makes possible:
 - Sunday work (+ public holidays)
 - Night work
 - Daily limit of 12 hours
- Strict conditions (e.g. prior information employee representatives)



Working time Telework

Structural teleworker

- CBA no. 85
- Excluded from (majority of) provisions on working time
- The teleworker organizes his own work within the framework of the working hours applicable within the company.
 - If a teleworker performs more work during a certain day, this must be compensated on another day
 - Difficult in case of limited telework
- Teleworker must demonstrate that it was impossible to perform the required activities within the normal working hours
 - Some case law: leads to additional salary (no overtime supplement)

Clear arrangements on performing additional hours, i.e. on top of normal working hours

- Additional hours must be approved in advance by manager; OR
- Salary covers any additional hours worked.



Overtime

Voluntary overtime (Art. 25 Labour Act - CBA no. 129)

- 120 hours (increase possible to 360 hours, depending on the industry)
- Overtime supplement;
- Without compulsory compensatory rest
 - Immediately paid out (normal supplement of 50% or 100%) or career savings account.
- Subject to prior written agreement between employee and employer;
 - Duration agreement: max. 6 months, renewable
- Without formalities towards third parties;
- Outside the work schedules stated in the work regulations (absolute maximum limits will of course need to be respected: 11 hours per day and 5° hours per week);
- No need to be compensated through resting periods but hours will be taken into account for the “internal limit”

! Voluntary overtime cannot be compensated

- Will remain in the internal overtime limit

Example: Employee performs 100 hours of voluntary overtime

143 hours - 75 hours (100 - 25) = **68 hours 'normal overtime' allowed**

Maintaining a healthy balance

- Increases in flexibility may serve both the company and the staff member but the past few months have also shown that (mental) health can be something fragile
- Today's Belgian health and safety legislation focuses on:
 - **Prevention** - Identifying the main risks within the company and finding remedies
 - **Health** - E.g. psychosocial well-being and ergonomics
 - **Safety** - Remedies for very specific safety hazards (e.g. dangerous working conditions)
- Increased importance of the role of the (internal) prevention advisor and the risk analysis of the company, especially with a view on working anywhere and anytime → losing connection to the company, neverending work stream, burnout/bore-out
- Right to disconnect?



Helping your company and your staff grow

- The current labour market requires individuals to continue learning and adapt to a “lifelong learning” mentality in order to stay relevant and to retain the necessary skill set
- Lifelong learning is included in the European Pillar of Social Rights
- Today already several legislative initiatives have been taken in Belgium to facilitate learning and continued education, e.g.:
 - Time Credit for educational purposes
 - Paid educational leave
 - Education vouchers for employees
- None of the above schemes accommodate the desire to make education and re-training an integral part of individuals’ (regardless of their current social status) careers
 - Inspiration from universal scheme in France

Partial exemption of remittance wage withholding taxes

- Minimum seniority of 6 months
- Minimum number of days of training (depending on size of the company)

Exemption: 11.75% of the normal taxable salary of the concerned employee in the month the training was finalised





Let's get to
work!

Guiding Principles for Workforce Planning

From our experience, the following principles help ensure success when developing a fit-for-purpose future workforce plan:

- Understand and work with the context and risk appetite of the organisation
- Consider the current organisation future strategy and environmental factors
- Understand the compelling reason for change or opportunity to realise in the organisation
- Co-design and develop key deliverables with internal expertise and key stakeholders
- Assess the current style of culture, leadership and adaptability for change
- Keep a close eye on legal developments and opportunities





Questions

Upcoming webinars



20 April 2021

New ways of managing your real estate investments



11 May 2021

New ways of using data



8 June 2021

New instruments for real estate developments

<https://www.pwclegal.be/en/events.html>





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