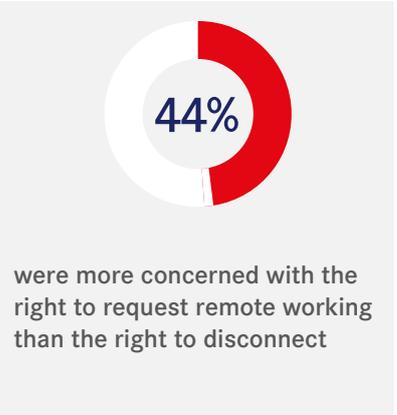
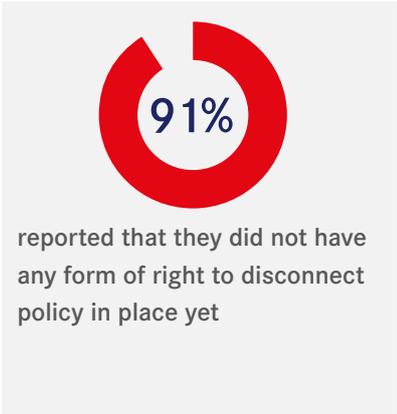




Employer Insights on Irish Right to Disconnect Code of Practice

Matheson recently hosted a webinar as part of its Employment Law Masterclass Series, on the Code of Practice on the Right to Disconnect introduced in April, which was attended by over 600 participants across various sectors of industry. During the webinar the participants had an opportunity to take part in a survey and answer questions in relation to the right to disconnect generally and the extent to which large employers are already taking such steps.

The main findings of the survey are as outlined below.



A large majority of the participants (91%) reported that they did not have any form of right to disconnect policy in place yet. The poll result is not surprising as in our experience, while some clients have been promoting measures to encourage employees to disconnect out of hours, very few of these employers have formal policies on this as yet. The small number that do, often also have German or French operations where this was being rolled out at an earlier stage.

The results of our poll regarding what Company-wide measures have been put in place already to encourage the right to disconnect may come as a surprise. Only 31% of the participants confirmed that they already had Company-wide measures in place to encourage the right to disconnect. This is an interesting result as we had seen a very significant increase in the number of employers encouraging employees to disconnect at least at some level in the last twelve months. It will be interesting to see the numbers if we ask the same question in around 6 months' time, once the Code is properly implemented and part of the general workplace.

A separate growing concern is in relation to the obligation to record employee working hours. 49% indicated that they did not have adequate systems in place in relation to recording employee working hours. Generally speaking, and going on the basis of repeated WRC reports, it does seem that the level of compliance with these requirements is not as high as in other areas. It will be interesting to see if this changes as part of the overall campaign. In our view, the possible explanation as to why employers have struggled to comply with this requirement is because of both cultural and technical issues. For a lot of employers, it feels regressive to ask their senior, valued and trusted employees to record their time. Even if intended to protect them, it may be misinterpreted as micro-management and excessive monitoring. Secondly, it has been difficult for employers to find an IT or technical solution that easily addresses the many requirements of the legislation.

Another interesting response to our poll relates to employees raising this issue since the Code was launched. At the time of the poll in April, only 16% confirmed that their employees had been raising queries on this. It is surprising that more employees have not raised queries about the Code, given the huge drive to promote this coming from the government, particularly in early April when first launched. We suspect this will change as this continues to build up momentum.

We also asked participants what concerns them more - the right to disconnect or the proposed right to request remote working, which is currently under review and due to be introduced by the end of the year. 56% of participants were more concerned with the right to disconnect, whereas 44% were more concerned with the right to request remote working.

Depending of course on how it is legislated for, we think the right to request remote work could potentially have a much greater impact on employers, in terms of the administrative burden it will place on them. Firstly, it will have a statutory basis whereas the Code is just a code, so will be much harder for employers to implement it on their terms. What we mean by this is that a statutory right is more actionable than a code, and perhaps will be clearer. Secondly, it will have a greater immediate impact, because so many employees are interested in remote working and continuing remote working. Based on any number of workplace surveys from June 2020 onwards, employers can fully expect to receive a large number of requests, all of which will have to be properly and consistently considered so they can manage any complaints received where they refuse. In addition, the legislation is expected to provide for a right of appeal against a refusal. This will, in practice, mean a significant amount of additional admin support being required on managing these requests, particularly for HR managers and directors bearing the burden and the administration of this in the future.

We will continue to look at these and other trends as our Employment Law Masterclass Series continue this year.

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