



2019



Making the case for flexible and agile working in Hong Kong's legal industry

A first-of-its-kind study of the individual attitudes and structural biases preventing Hong Kong's legal industry from adopting a better flexible and agile working model.

Survey and report published by Women in Law Hong Kong

Author: Michelle Fung

Editor: Anita Phillips

Flexible and agile working committee members: Fiona Chan,
Lauren Ellison, Stephanie Szeto, Jeannette Tam & Amy Tye





FOREWORDS

I congratulate Women in Law Hong Kong for launching this important survey and report. The legal profession is a demanding yet rewarding one. I believe that everyone, regardless of gender, can thrive with commitment and passion for the job. But times are changing, as are working practices and technology. With creativity and flexibility, work and home life need not always be demarcated in terms of time and place.

I spoke on International Women's Day 2019 about creating more balance in the legal profession. I believe that flexible and agile working – allowing those in the legal field to work away from the office using technology to remain connected – is one such way to create balance. I hope to see more employers taking creative approaches enabling their people to enjoy their work and perform to their highest potential wherever they are based.

Teresa Cheng GBS, SC, JP

Secretary for Justice

Government of the Hong Kong SAR



律政司

香港特別行政區政府

Department of Justice

The Government of the Hong Kong
Special Administrative Region

Hong Kong has some of the longest working hours in the world and lack of work-life balance is a critical barrier to gender parity in the workplace. Flexible and agile work policies are essential to enable both women and men to carry out family and other responsibilities, to support work-life balance and ultimately to advance greater gender equality in the workplace.

Congratulations to Women in Law Hong Kong for conducting this important study to drive awareness and action in the legal profession and to support a culture in our workplaces that puts work-life balance at the forefront.

Fiona Nott

CEO

The Women's Foundation

This WILHK report is very timely and makes some strong recommendations for the legal profession to consider in working towards a healthier work environment for everyone. Agile and flexible working are just part of the solution: the report correctly highlights the importance of culture change both in the workplace and in society as a whole to ensure we normalise the need for a healthy balance between work and other interests. This is not just for the wellbeing of individuals, but because it makes good business sense in terms of increased productivity and better retention.

Congratulations to the authors and everyone who supports WILHK.

Brian Henderson

Co-Chair, Male Allies Initiative

The Women's Foundation



TABLE OF CONTENTS

EXECUTIVE SUMMARY	7	PART 3 FACTORS PREVENTING HONG KONG FROM ADOPTING A FLEXIBLE & AGILE MODEL	35
SNAPSHOT	8	I. Appearing committed: double standards for working mothers	38
OUR SURVEY	11	II. Cultural stigma: employees working flexibly or agilely are not as career hungry	40
THE BASICS: DEFINING FLEXIBLE & AGILE WORKING	13	III. Premium on physical over digital presenteeism	42
PART 1 THE CURRENT LANDSCAPE	16	IV. Foreign domestic helpers and the cost of eldercare	44
I. Hong Kong compared to its global peers	17	V. Commute	46
II. Common flexible & agile working arrangements in Hong Kong	19	PART 4 RECOMMENDATIONS AND ACTION STEPS	48
III. Hong Kong's female brain drain	21	I. Management support: "Leaders leaving loudly"	51
IV. Alternative legal service providers lead Hong Kong's flexible & agile working movement	23	II. Building a team culture of flexible & agile working and learning to manage flexible teams	53
PART 2 WHY ORGANISATIONS SHOULD ADOPT IT	25	III. Setting up flexible & agile working for success	55
I. The business case for flexible & agile work	26	IV. Employees need to embark on flexible & agile working with their best foot forward	58
II. Employee benefits and motivations for flexible & agile working	31	V. Change parental leave policies	60
III. The practical realities of flexible & agile working	33	VI. Practical tips for deploying flexible & agile working	63
		ACKNOWLEDGEMENTS	65
		DISCLAIMER	66

EXECUTIVE SUMMARY

A call to work smarter

Over the past decade, there has been a turning tide in the way we work. Advances in technology, a globalised economy, and greater acknowledgement of mental health and work-life balance have changed working expectations for all. In many sectors and regions, flexible and agile working has been deployed to respond to these changes. For employees, it has provided a greater sense of control and improved job satisfaction. For employers, it has delivered greater worker output at lower cost and warded off attrition. Flexible and agile working benefits the bottom line.

Hong Kong's legal profession is characterised by lean teams, fast-paced work, tight deadlines and frequent travel. Flexible and agile working can relieve these triggers of burnout, enabling employees to better balance their commitments. Employers in turn can provide a valuable non-monetary benefit to their workforce in exchange for discretionary effort.

Our survey, a first for Hong Kong's legal industry, uncovers the structural biases and cultural attitudes preventing the greater adoption of flexible and agile working. It covers all genders and those working both in-house and in private practice. It is representative of the professional services sector in general.

We believe that stakeholders at all levels (macro – government and pan-industry organisations; meso – firms and companies; and micro – individuals) can improve a working model in need of reform. To avoid losing tomorrow's talent to New Law, start-ups or a different industry altogether, it is time to work smarter.

RECOMMENDATIONS FOR BUILDING AN EFFECTIVE FLEXIBLE AND AGILE WORKING MODEL:

Successful implementation of flexible and agile work requires

- ☒ Leaders committed to flexible and agile working and willing to publicly role model it
- ☒ Management skills to lead flexible and agile teams
- ☒ Effective technology
- ☒ 'Work hygiene' by flexible/agile workers: establishing a routine, limiting distractions and ensuring contactability

Build buy-in through

- ☒ Open policies and simple procedures to apply for flexible/agile working
- ☒ A (mandatory) trial period to encourage managers and employees to foster flexible and agile work habits
- ☒ Teams developing clarity around when, where and how people will be working
- ☒ Financial metrics and surveys to assess impact/improvement to billable hours, service delivery and employee satisfaction

Tackle bias/preconceptions

- ☒ Flexible/agile working is not just an employee benefit: it creates a more productive and profitable workforce which is good for employers
- ☒ Flexible/agile working should be seen as a solution for all to build a sustainable and fulfilling career in law
- ☒ Training and guidelines can tackle common preconceptions (eg. the beliefs that flexible/agile working is only for working mothers and caregivers, people who work flexibly or agilely are less committed to their career, productivity will drop if I can't see what my employees are doing, or clients and quality will suffer)
- ☒ Flexible/agile working and parental leave policies enable gender balance; introducing shared parental leave policies builds a more balanced workforce

SNAPSHOT

Hong Kong organisations lag behind international counterparts

- Only 29% of Hong Kong headquartered organisations have flexible working policies compared with 75% of UK headquartered organisations in Hong Kong.
- 50% of organisations in Hong Kong have a flexible working policy (eg. fixed hours, part-time, job share, contract).
- 34% of organisations in Hong Kong offer an agile working policy (eg. allowing employees to work away from the office, hot desk, or take unlimited leave).

Top three drivers for pursuing flexible and/or agile working

- Work/life balance;
- Productivity; and
- Control.

Increased productivity means gains in profitability

- 81% of our survey respondents stated that flexible and/or agile working enhanced their productivity.
- There is a business case to be made for flexible and agile working: increased employee productivity and discretionary effort is a driver of cost savings and benefits the bottom line.
- A shift is required from dealing with flexible and agile work arrangements from an employee point of view to seeing the organisational value of a flexible and agile workforce.

Lack of sustainable flexible and agile working causing a female brain-drain in Hong Kong

- 90% of our survey respondents felt strongly that a broader adoption of flexible and/or agile working in Hong Kong would help women achieve senior positions.
- Numerous comments to our survey came from women who highlighted that work and societal expectations assume that they are the major caregiver.
- Many women consider alternative options due to the lack of flexible and agile working in Hong Kong.
- 60% of our survey respondents identified that the availability of flexible and agile working would significantly influence them to stay with or join an organisation.

Stigma (real & perceived) to flexible and agile working from management and team members

- Individual and team attitudes are holding Hong Kong back from adopting better flexible and agile working practices.
- Mainstream bias based on a preference for physical presenteeism means that working flexibly and agilely infers a lack of serious commitment to one's career.
- Employees sense the career limiting effect of such a request. The top three reasons holding people back from applying for flexible and agile working are (1) fear of seeming not committed to work; (2) cultural stigma in asking for such an arrangement; and (3) premium on physical presenteeism.
- This is not a gender specific problem, although working mothers are stereotyped as more likely to request flexible and agile working.
- Actionable steps include management champions, training for deploying flexible and agile working, clearer communication of flexible and agile working policies, and employees taking control and showing it can work.




FLEXIBLE AND AGILE WORKING SURVEY

SNAPSHOT

Arrangements

Amongst Hong Kong headquartered private practice and in-house organisations:

50% 
of survey respondents reported ad-hoc flexible/agile working arrangements

10% 
of survey respondents reported flexible/agile work arrangements pursuant to a formal policy

Takeaway: Hong Kong's legal industry has 5x ad-hoc flexible and agile working arrangements than formal arrangements

Productivity = Profitability

Has flexible and/or agile working enhanced your productivity?

To some extent
Significantly 
81% 
of survey respondents agreed flexible and/or agile working enhanced their productivity

Takeaway: Flexible and agile working results in more productive employee which benefits the bottom line

What's holding us back?

Top 3 ranked personal hesitations to applying for flexible and/or agile working:

I feel there is a cultural stigma towards flexible and/or agile working in Hong Kong

I am concerned people will think I am not committed



I feel my organisation puts a premium on being physically present in the office

Takeaway: Stigma (real and perceived) to flexible and agile working from management and team members needs to be tackled

Policies

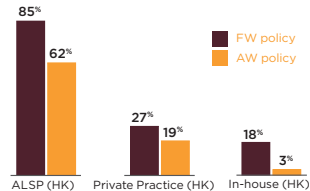
75% 
of UK headquartered organisations in Hong Kong have flexible working policies

29% 
of Hong Kong headquartered organisations have flexible working policies

Takeaway: Hong Kong organisations lag behind international counterparts

Landscape

Amongst Hong Kong headquartered organisations:



Takeaway: Alternative legal service providers (ALSPs) are leading Hong Kong's flexible and agile working movement

Effect on women

96% of caregivers in our survey were female 

90% of survey respondents strongly felt that increased flexible and agile working arrangements would help women achieve senior positions 

60% of those entering the legal profession in Hong Kong are female 

25% of private practice partners in Hong Kong are female 

Takeaway: Lack of sustainable flexible and agile working is causing a female brain-drain in Hong Kong



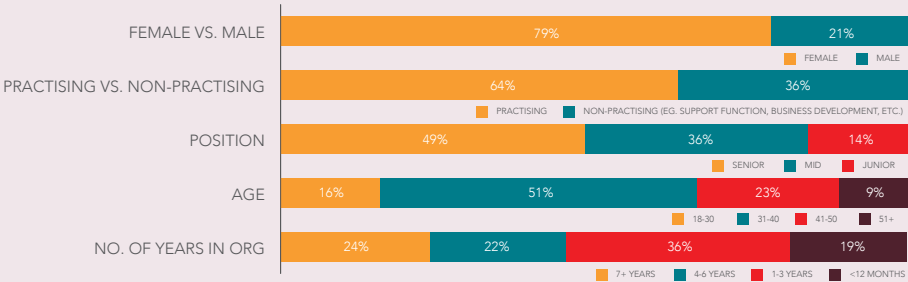
OUR SURVEY

Flexible and agile working is fast becoming a conversation that all employees will likely come across or pursue during the course of their careers. The legal profession is no exception. In North America, Europe and Australia, flexible and agile working are becoming commonplace offerings in the legal industry. By comparison, Hong Kong, a global city and home to Asia's most well-developed and extensive legal community spanning international and local firms, has seen little traction with flexible and agile working.

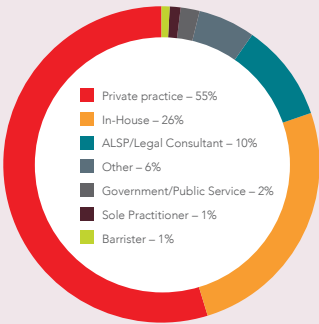
In the Fall of 2018, Women in Law Hong Kong (**WILHK**) launched a first-of-its-kind survey for Hong Kong's legal industry, profiling the attitudes, biases, unspoken expectations and challenges to flexible and agile working. WILHK's goal was to raise awareness and to drive change.

The survey was open from September to November, 2018 and invited responses from all individuals, regardless of gender, who worked in any capacity related to Hong Kong's legal industry. The survey responses were anonymous. We received nearly 400 answers from men and women, from lawyers and support staff across private practice law firms, in-house legal teams, and alternative legal service providers (**ALSPs**). The results were eye-opening and telling for a city with a diverse mix of international and local law firms. The lessons learned from the survey could help position Hong Kong as a leader for other legal and financial centres globally.

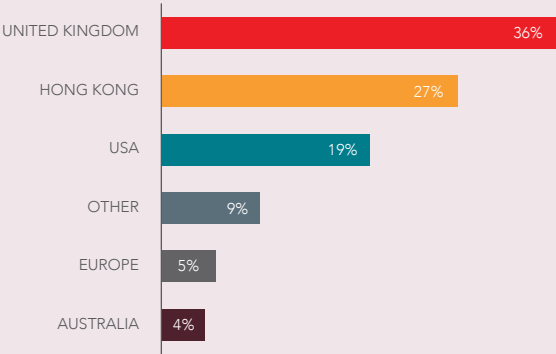
Snapshot of the survey respondents



TYPE OF ORGANISATION



ORGANISATION HEADQUARTERS



THE BASICS: DEFINING **FLEXIBLE & AGILE WORKING**



What is flexible and agile work? Since each organisation comes out with its own version of a flexible and agile working policy, there is no single definition for what is a very user and organisation specific way of working that should be tailored to suit the employee and employer's needs.

For the purposes of our study, we have used the following definitions:



Flexible Working

is a work arrangement designed by an organisation for an individual's employment or engagement which provides flexibility in regards to time, location, role, or source.

Eg. Flexible start and finish times, condensed work weeks or work hours, work sharing, part-time, home working, independent contractor basis, freelance, etc.



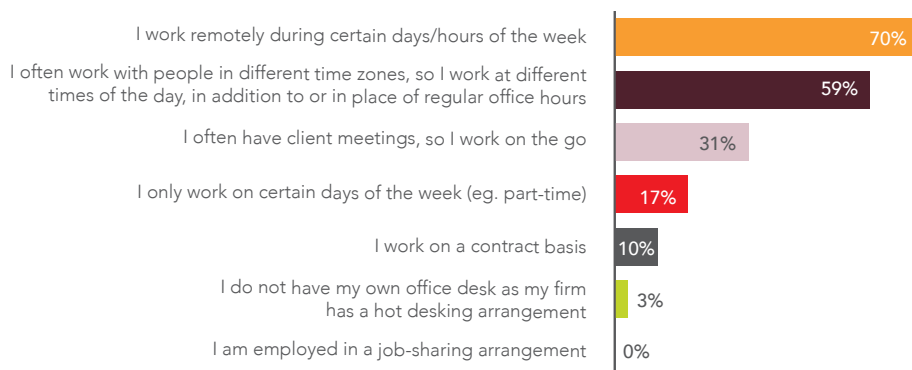
Agile Working

is an approach to getting work done with maximum flexibility and minimum constraints which focuses on eliminating the barriers to getting work done efficiently.

Eg. Working from a coffee shop, laptop policy, hot-desking, unlimited annual leave, ad-hoc home working, etc.

Agile working is generally much broader and emphasises the employee's autonomy and prerogative to choose the manner in which they carry out their work duties (bottom-up). This contrasts with flexible working where the flexibility is provided for by the employer (top-down). Both flexible and agile working can occur as a formal or informal arrangement, but flexible working is more likely to be enshrined in the employment contract.

What is your flexible and/or agile working arrangement? You can select more than one choice and please select all that apply.





PART 1

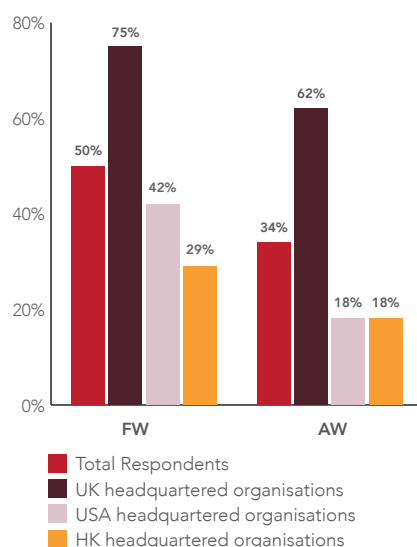
The Current Landscape

I. HONG KONG COMPARED TO ITS GLOBAL PEERS

Our survey asked participants whether their organisation has an existing policy on flexible or agile working. By a wide margin, Hong Kong lags behind its international counterparts. Only 29% of Hong Kong headquartered organisations have flexible working policies. And even fewer have agile working policies (18%). Our survey uncovers clear cultural biases and barriers in Hong Kong.

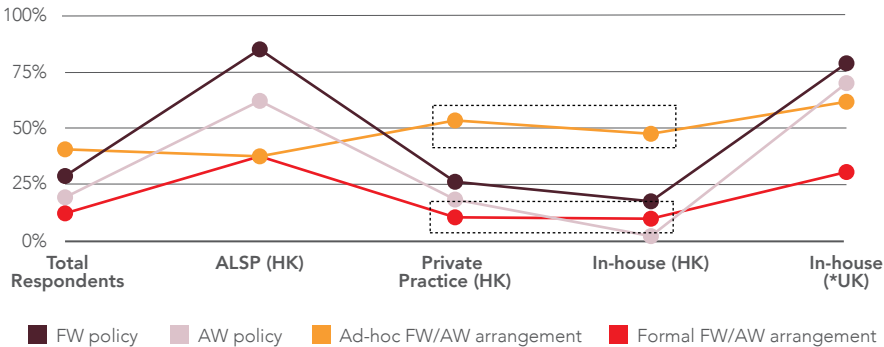
The UK is the clear leader in implementing flexible and agile working policies: 75% of UK headquartered organisations in Hong Kong have a flexible working policy and 62% have an agile working policy. The Hong Kong offices of the UK organisations are likely carrying over existing policies from their UK head office.

Does your organisation have a policy on flexible and agile working?



While policies are important, engagement with flexible and agile working arrangements is another story (see chart below and Part 3). Respondents indicated that private practice and in-house Hong Kong organisations each have about a 50% adoption of ad-hoc flexible and agile arrangements (yellow). This is notably 5x-higher than the reported number of flexible or agile work arrangements pursuant to a formal policy (red).

Comparison of the rate of flexible and agile working polices with incidences of ad-hoc and formal arrangements by type of organisation



Takeaway: Hong Kong headquartered organisations must increase the prevalence of flexible and agile working. Hong Kong can learn from best practices of UK organisations. The silver lining is that Hong Kong's legal industry has a strong penetration of ad-hoc (informal) flexible and agile working arrangements – nearly 5x the reported number of formal arrangements.

II. COMMON FLEXIBLE & AGILE WORKING ARRANGEMENTS IN HONG KONG

Flexible and agile work arrangements in Hong Kong, particularly those pursuant to a formal policy, are still uncommon in the legal industry. Of those who do engage in flexible and agile working, the most popular arrangement is where people “work remotely during certain days/hours of the week.” The top three common working arrangements relate to odd hours of working due to business travel, time zones and travel for client meetings. These are all a type of agile working where the employee’s work differs in regards to location and time of work done. 61% of those who engage in this are in private practice showing that private practice is not a bar to flexible working. These are likely informal arrangements, undefined by any formal policy, that arise from the nature of the work done. These forms of flexible and agile working practices appear to be a reality of Hong Kong’s international client base and business environment, frequency of travel within Asia, and being caught between time zones of Europe and North America.

WILHK advocates for an industry-wide increase of flexible and agile working. However, organisations should develop policies that go beyond just the ‘low-hanging fruit’ of flexible and agile working. The purposes of flexible and agile working are to improve job satisfaction, productivity, and reduce staff turnover. If employees work in an agile fashion as an extension to their already long working hours, and this is marketed as flexibility, the long-term results are counter-productive. This could lead to burn-out and attrition. Instead, WILHK recommends that Hong Kong firms and organisations look to implement less common options of flexible and agile working such as part-time, contracting, hot desking, and job-sharing. This will introduce a more sustainable and balanced practice of flexible and agile working and allow firms and employees to enjoy the benefits of flexible and agile working while continuing to contribute to Hong Kong’s international business environment.

“ This is not so much a choice - we work longer hours because of the time differences with our clients. It's not FW so much as just having to be flexible to serve our clients. ”

“ I travel a lot as part of my role and often work on the go ”

What is your flexible and/or agile arrangement? You can select more than one choice and please select all that apply.

1	"I work remotely during certain days/hours of the week"	70%
2	"I often work with people in different time zones, so I work at different times of the day, in addition to or in place of regular office hours"	59%
3	"I often have client meetings, so I work on the go"	31%

Takeaway: Current flexible and agile working arrangements in Hong Kong are equal to the 'low-hanging fruit' of flexible and agile working practices. To increase the adoption and acceptance of flexible and agile working, firms and organisations need to implement less common options (part-time, contracting, hot desks and job-sharing). This will introduce a more sustainable and balanced practice of flexible and agile working.

III. HONG KONG'S FEMALE BRAIN DRAIN

There is a large discrepancy in Hong Kong between the number of women who enter the legal profession and those who reach senior positions. The Hong Kong Law Society identifies 60% of those entering the profession as female. However, the percentage of female private practice partners is less than 25%.¹ This disparity reflects broader structural problems in Hong Kong's industry-wide work environment. According to The Women's Foundation, only 55% of Hong Kong women are in the workforce, a lower rate than Singapore, Australia, and China (all in the range of 60%). Furthermore, Hong Kong women on average earn 22% less than men and only 29% of management roles in Hong Kong are held by women – well behind Malaysia (38%) and China (37%).² The lack of female representation at the top-level is also staggering: the percentage of women on the boards of Hang Seng Index companies dropped to 13.1% in 2019.³

Women are traditionally and predominantly the family caregivers: 96% of caregivers in our survey were female. As a result, Hong Kong's legal industry suffers from a female brain drain, typically at motherhood which coincides with a critical juncture of doubling down on one's career.

“**[As a working mother,]
I am considering
alternative options
due to lack of support
for flexible and agile
working**”

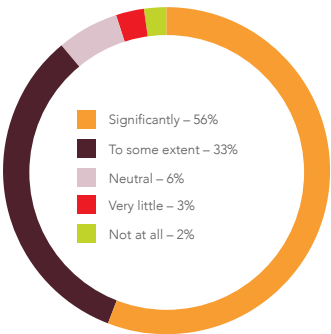
“**Women are still
expected to be the
primary caregiver,
admin organiser of the
family and therefore it
is extremely difficult for
women with families
to juggle all her
responsibilities at the
same time**”

¹ *Reaching out to In-House Solicitors (Hong Kong Law Society), June 2018.*

² *Hong Kong and Gender Equality: How is Hong Kong progressing on workplace gender equality compared to Asia Pacific? (The Women's Foundation Infographic), March 2019.*

³ *Women on Boards Report (Community Business), 2019.*

Do you think broader adoption of FW and/or AW in Hong Kong’s legal industry would help women to achieve senior positions?



90% of respondents strongly felt that a broader adoption of flexible and/or agile working in the Hong Kong legal industry would “significantly” or “to some extent” help women to achieve senior positions. By comparison, only 5% believed that flexible and/or agile working would be of “very little” help or “not at all” helpful to women achieving senior positions. Implementing more flexible and agile working policies and increasing participation is necessary to attract and retain female talent, thereby driving diversity and gender equality.

Of course, the right to work flexibly and agilely is not gender specific. WILHK believes that the typical division of roles in and outside work needs to be shaken up to achieve more balance. This requires policy change and societal change, but organisational change is a good place to start.

Takeaway: Less than 25% of private practice partners in Hong Kong are women, a statistic representative of the pervasive loss of female talent in Hong Kong. Our survey showed an overwhelming 90% agreed that increased flexible and agile working arrangements would help women achieve senior positions.

IV. ALTERNATIVE LEGAL SERVICE PROVIDERS LEAD HONG KONG'S FLEXIBLE & AGILE WORKING MOVEMENT

Among Hong Kong headquartered organisations, our survey found that alternative legal service providers (ALSPs) are at the forefront of the flexible and agile working movement.⁴ ALSPs in essence offer a flexible career choice to lawyers who want more control over their time and greater variety in projects and clients. ALSPs place consultant lawyers into law firms and in-house roles on a contract basis, in part-time employment, or agile working.

In our survey, 85% of consultants in Hong Kong said their ALSP has a flexible working policy in place.⁵ On the low end of the spectrum are private practice local Hong Kong law firms (27% have a flexible working policy) and in-house Hong Kong organisations (18% have a flexible working policy). As a benchmark, 79% of in-house UK headquartered organisations in Hong Kong have a flexible working policy. The contrast between these two cities is significant.

“

To remain an attractive profession, law needs to offer more flexibility both through ALSPs and permanent jobs with flexible and agile arrangements. Otherwise attrition rates will continue to rise

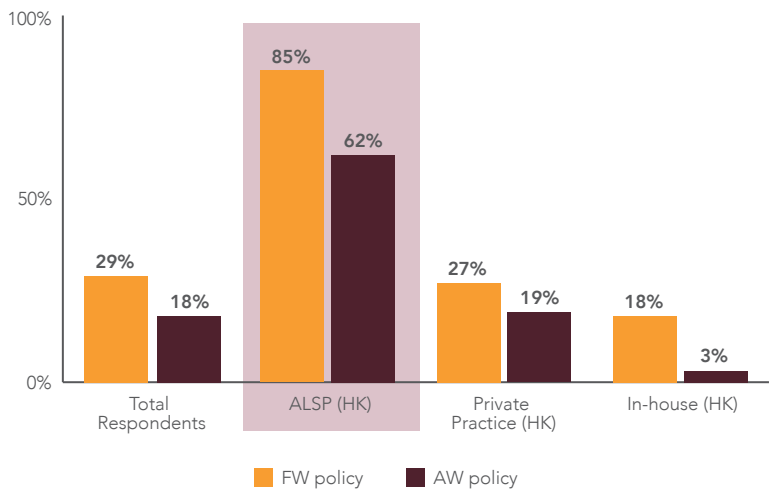
– Stephanie Szeto, Senior Business Manager, Peerpoint (Allen & Overy)

”

⁴ *Alternative Legal Service Providers (Women in Law Hong Kong).*

⁵ Given that all lawyers at ALSPs are working on either a flexible or agile basis, the remaining 15% of respondents who responded they were not aware of any flexible or agile working policies within their ALSP organisation were non-practising legal staff.

Does your organisation have a policy on flexible and agile working?



Takeaway: *ALSPs’ flexible and agile work offerings are head and shoulders above other Hong Kong organisations. While ALSPs in essence offer a flexible career choice to lawyers who want more control over their time and greater variety in projects and clients, it is a wake-up call for other organisations to step up.*

PART 2

Why Organisations Should Adopt It

I. THE BUSINESS CASE FOR FLEXIBLE & AGILE WORK

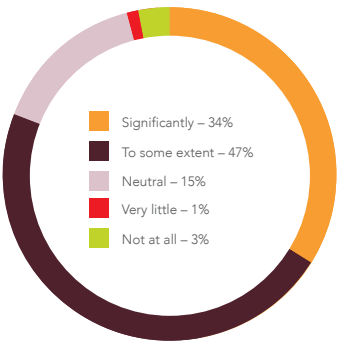
Flexible and agile working makes for more productive, efficient and happier employees. These benefits are empirically described in case studies worldwide. But therein lies the reason why organisations have not fully converted to a flexible and agile working model: it has been positioned largely as an employee benefit. These are difficult metrics to quantify and without a clear business case, few law firms or organisations are willing to take a leap of faith to change a way of working that isn't exactly broken.

“Flexiwork Savings Calculator”

We challenge Hong Kong’s legal industry to better understand the business case for flexible and agile working. In 2018, Australia’s largest in-country management consultancy, Nous Group, developed a “flexiwork savings calculator” (accessible [here](#)) after being commissioned by the Australian state of Victoria’s government agency to calculate the financial return on investment (ROI) for flexible work.⁶ Nous

Group tested the model on three organisations, two of which were government resource planning and service corporations and one, not-for-profit hospital and health provider. The results plainly show significant net savings to the ‘bottom-line’ of all three organisations.

Has flexible and/or agile working enhanced your productivity?



⁶ Nous Group presents ROI as the net amount the organisation would have to spend in the absence of flexible work to achieve the same productive output: "Nous is not suggesting that our figure is a direct revenue gain to the organisation. Nor are we suggesting a ratio of benefits gained to investment costs (as shown in a true ROI model), as we are looking at annual ongoing costs rather than the costs of an initial investment in flexible work." *Nous Group report: "Flexible work, good for business?" (March 2018), pg 7.*

“Working smarter & better (not longer)”

The flexible and agile working financial model takes a ‘bottom-up’ approach and calculates each component that contributes to the total benefits or costs of flexible and agile work on an organisation’s financial performance (see page 28 chart). In the model, direct labour productivity is the key driver of overall cost savings. It is derived from employees self-reporting the extent to which flexible work influences their productivity and the assumption that extra productivity is an extra hour’s worth of additional output per day (15% increase).⁷ Similarly, our survey results confirm the effectiveness of flexible and agile working on productivity: 81% of survey respondents agreed that flexible and/or agile working enhanced their productivity. In short, law firms and organisations have an untapped treasure trove within their existing workforce if they are willing to embrace flexible and agile working.

WILHK has not seen a comprehensive mechanism for quantifying the financial benefits of flexible and agile work like the Nous Group’s financial model. Most companies and firms still deal with flexible and agile work arrangements from the employee value proposition point of view. Requests are often dealt with on an individual basis, reluctantly agreed to on an informal basis, or advocated as a diversity play from the ‘Parents’ or ‘Women’s’ sub-committees. It is rarely looked at as a way to help businesses meet their financial objectives. And companies are wary to extend such policies beyond an individual level as they are perceived to be a risk to businesses. With little research into how businesses can benefit from flexible and agile working, the perception wrongly remains that it is a cost and threat to the business.

By publishing this model, the Nous Group removes a significant barrier for businesses in adopting flexible and agile working.

⁷ *“The underlying data for direct labour productivity comes [first] from a survey in which employees self-report the extent to which flexible work influences their productivity (i.e. their ability to ‘work smarter and better’)... We also tested this by asking individuals in one case study organisation to rate the impact of flexible work on their own productivity, and then on their colleagues’ productivity. The two figures closely align, which suggests that employees are not significantly overstating their own productivity relative to their colleagues’ perceptions of it. [Second] the calculation for direct labour productivity also relies on an assumption, based on the literature, about quantifying what ‘a lot more productive’ means when this is self-reported by staff. Two studies have supported the finding that a ‘big’ productivity increase is roughly a 20 per cent increase in employee efficiency. We have scaled this to a more conservative 15 per cent in our model to account for the potential for overstatement in the employee survey and for the fact that flexible work isn’t the only driver of direct labour productivity. 15 per cent constitutes just over an extra hour’s worth of additional output per day in an eight-hour day through working smarter and better (not longer).” Ibid., 32.*

Access to flexible working is clearly linked to:

- ✓

Improved organisational productivity
- ✓

An enhanced ability to attract and retain employees
- ✓

Improved employee well-being
- ✓

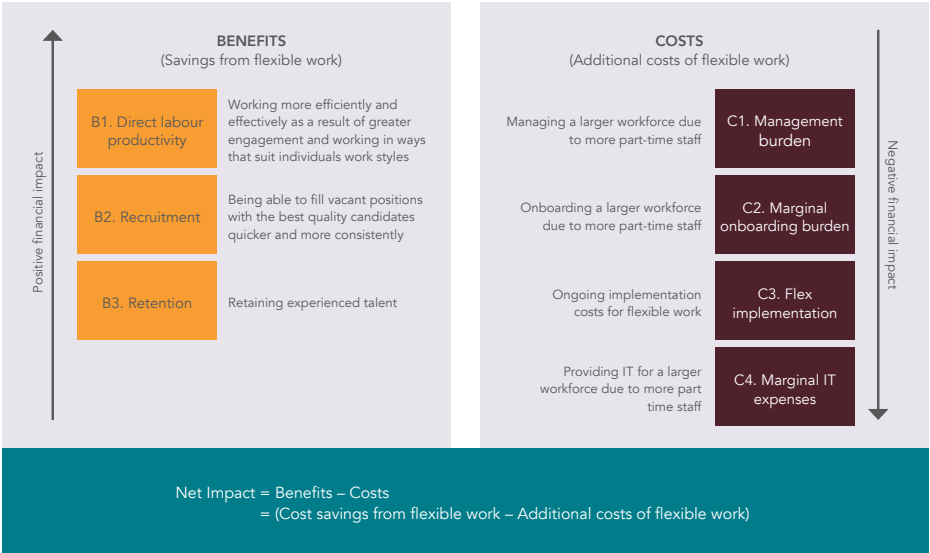
An increased proportion of women in leadership
- ✓

Future-proofing the workplace
- ▶

The Department of Environment, Land, Water and Planning saved HKD \$167M per year (2.3% of net income)
- ▶

Mercy Health saved HKD \$124M per year (3.9% of net income)
- ▶

Wannon Water saved HKD \$810,000 per year (0.2% of net income)



Source: *Nous Group report: "Flexible work, good for business?" (March 2018), pg 7;*
More information on pg 4.

HR managers can immediately get a ballpark figure of the ROI for flexible work by inputting less than 10 data points into the “flexiwork savings calculator”. This could be the organisation’s number of employees and the percentage of those using flexible or agile work arrangements.⁸ This immediately shifts internal management discussions from defending flexible and agile work on an individual employee basis to making a business case focused on the organisational value of a flexible and agile workforce.

Takeaway: Flexible and agile work arrangements have largely been positioned as an employee benefit. A recently developed financial model in fact proves flexible and agile working benefits the bottom line of companies; thus, quantifying benefits such as employee productivity, retention, and improved well-being.

Case Studies: Select professional services organisations implementing flexible and agile work & ROI measures

Addleshaw Goddard LLP (Manchester, UK)	<i>Created a flexible and agile word processing team (full-time and part-time arrangements, home working, flexible capacity working, and split shifts)</i>	↑ 15-20% in team productivity; ↓ 50% in absenteeism
Citi (UK)	<i>Alternative workplace strategy using hot-desks applied to certain target roles and departments</i>	↓ 20% in real estate costs
Ernst & Young (Australia)	<i>Gives employees 6-12 weeks of ‘life leave’ each year to travel, work part-time, or simply to relax</i>	↑ 11% in employee engagement
Eversheds Sutherland (Cambridge, UK)	<i>Informal four-week flexible working pilot allowing all staff to try out any and all styles of flexible working to suit personal circumstances (a ‘blue-sky’ approach). Formalities were avoided except for a record sheet that participating employees were asked to complete with the purpose of measuring impact on productivity and obtaining their feedback</i>	↑ 15% in billable hours; ↑ 28% in self-reported productivity; ↑ 60% in work-life balance

8 All entries in the “flexiwork savings calculator” are confidential. Nous Group does not record any data.

Herbert Smith Freehills (London, UK)	<i>'Working Smarter' initiative was launched in 2015 to promote agile working</i>	<ul style="list-style-type: none">↑ in billable hours recorded;↑ productivity reported by 75% of respondents;↑ work-life balance reported by 88% of respondents
KPMG (Glasgow, UK)	<i>Tax Centre of Excellence introduced annualised hours' contracts, where an agreed number of annual working hours (not days) are defined. Longer hours are required to be worked at peak times and time is taken off during periods of lower demand – while staff continue to receive a regular monthly income</i>	Exceeded growth target by 10%
McKinsey & Company (London, UK)	<i>'Take Time' was launched as a flexible working model designed to provide all non-partner consultants with the opportunity to take a further four weeks off each year to pursue personal interests</i>	15% of consultants working at approximately 90% of normal compensation without any impact on client service capability

Primary source:
Agility Futures Forum Case Studies

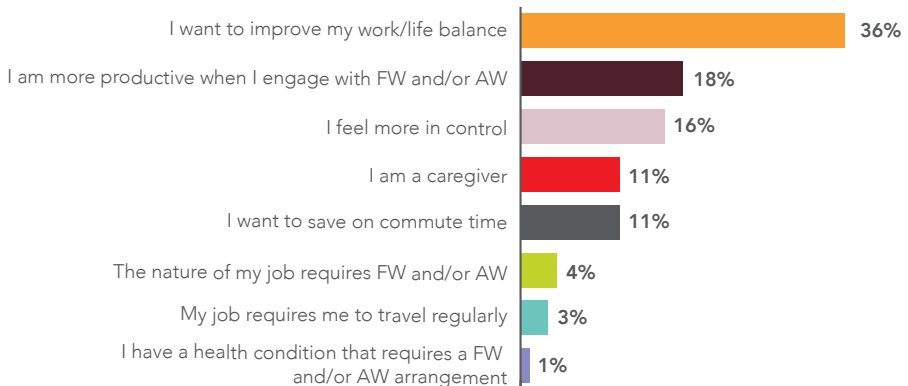
For more case studies, Eureka Consulting Group has worked with WILHK to produce a report on successful flexible and agile work arrangements in the UK and Australia. See their report, accessible [here](#).

II. EMPLOYEE BENEFITS AND MOTIVATIONS FOR FLEXIBLE & AGILE WORKING

In our survey, the top three choices for pursuing a flexible and/or agile work arrangement were related to work/life balance, productivity, and feeling more in control. This proves how flexible and agile working is valued by employees as a strategy to deal with the day-to-day challenges of their job.

For organisations concerned about talent retention, encouraging and providing flexible and agile working arrangements makes for a more committed workforce. 85% of survey respondents said that formal flexible and/or agile arrangements or policies would influence their decision to stay with their organisation. In addition, 95% of survey respondents said that flexible and/or agile work arrangements positively impacts an organisation's culture.

Please rank your top three motivations for flexible and/or agile working?



“ As I was free of distraction / calls / enquiries, it allowed me to focus on work that required strategic planning ”

“ It has made me stay at my firm and feel more fulfilled in my role. I have been supported in my promotions working on a part-time basis ”

“ I get to actually see my children ”

“ I have gone from wanting to resign to being very motivated and committed to my role ”

“ It's allowed me to work productively, pursue my hobbies, spend time with my wife and children – all without feeling so time crunched as to become stressful. The very definition of balance, which as we all know is the secret to happiness. ”

Takeaway: Flexible and agile working is valued by employees as a strategy to deal with work/life balance, productivity, and feeling more in control. Promoting a flexible and agile workforce influences employees to stay with their organisation, which in turn promotes talent retention. 95% of those surveyed said this positively impacts their organisation's culture.

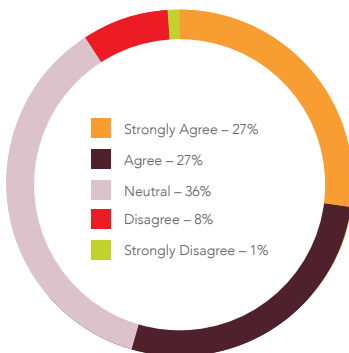
III. THE PRACTICAL REALITIES OF FLEXIBLE & AGILE WORKING

On the whole, less than 10% of survey respondents found flexible or agile working negatively impacted their career and over 50% found it positively affected their career. However, comments to our survey describe individuals struggling with difficulties of visibility, presenteeism, and distraction of kids when working from home.

In addition, 34% of survey respondents reported increased stress levels from a flexible

and/or agile work arrangement. Naturally, there is an element of stress in adopting a new way of working: lack of team support, balancing work and family conflicts, and possible delayed promotion opportunities. However, a larger segment (37%) reported no increased stress and 18% very little increased stress.⁹ This is encouraging. The practical issues raised should not be overlooked though. Employers should deal with these head on through management training.

Has flexible and/or agile working positively impacted your career?

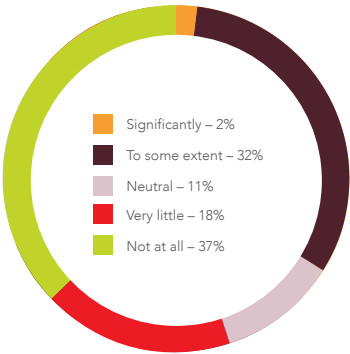


“Flexible and agile working does not allow you to interact with stakeholders, including management. Without the facetime, you tend to get forgotten, including for promotion!”

“Flexible and agile working come at a significant price – both financially and in terms of advancement. That is the reality”

⁹ In another survey question, 79% of respondents agreed that flexible and/or agile working “significantly” or to “to some extent” lived up to their expectations.

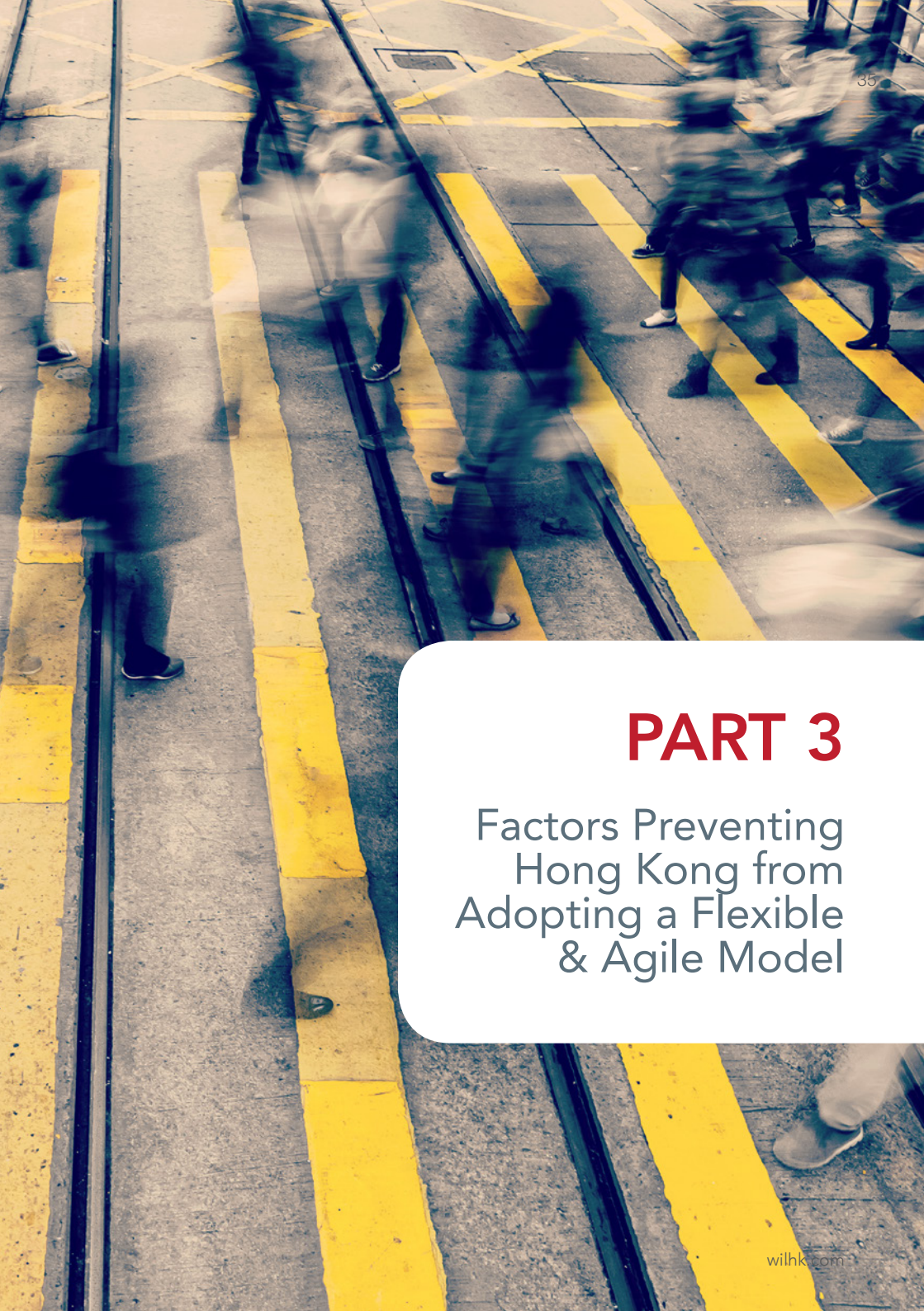
Has flexible and/or agile working caused you increased stress?



“Periods of time when I have had flexible and agile working have stalled my career”

“Increases expectations on working hours. All take, no give”

Takeaway: Flexible and agile working is not a cure-all, nor will it work for everyone. Being realistic with your individual working style, access to a proper working environment outside of the office, and team support are important factors in creating a sustainable framework around how you work. When done properly, flexible and agile working should positively impact your career and reduce stress.



PART 3

Factors Preventing
Hong Kong from
Adopting a Flexible
& Agile Model

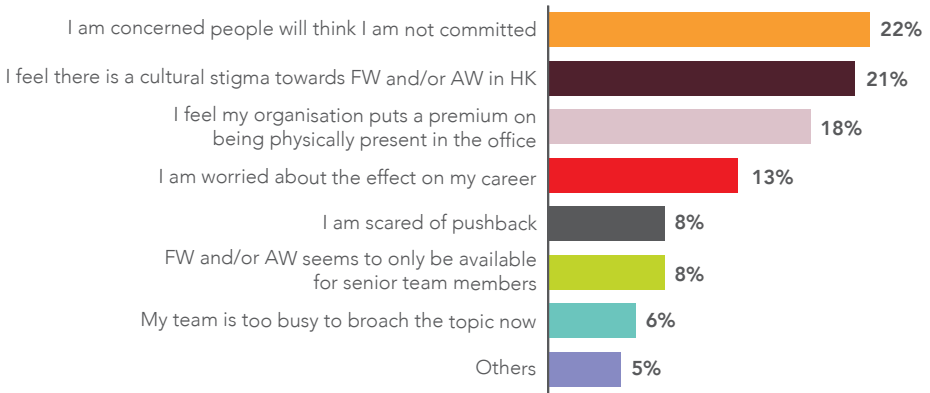
The existence of flexible and agile working policies is one issue, but genuine adoption depends on deep-rooted changes to the culture and attitudes at work and in society. Our survey reveals notable barriers, some general and some specific to Hong Kong, limiting the effective adoption of flexible and agile working policies.

Our survey asked what respondents feel is holding them back from applying for a flexible or agile work arrangement. Several themes emerged focused on:

- commitment
- perceived stigma in asking for a flexible or agile working arrangement; and
- premium on physical presenteeism.

These are inter-related and we explore them below.

Which of the following statements most accurately describes any personal hesitation you may have to apply for FW and/or AW? Please select all that apply.



“

Hong Kong is incredibly behind when it comes to FW and AW (at least my firm) and this was one of the biggest shocks when moving here. Something that is actively encouraged in the UK (and in other countries) is not treated seriously in Hong Kong. The excuses are:

- 1. your commute is very short, so why would you need to work from home;**
- 2. you need to be in the office all the time (as I don't trust you to do your work from home, when we are a lot more efficient when we work from home); or**
- 3. you have a helper, so why do you need to spend time at home?**

The partners here have refused to implement the UK policy in Hong Kong because 'it is a different market' (citing the above points).

”

“

I am worried that the arrangement will become an excuse for my boss to ask for overtime

”

I. APPEARING COMMITTED: DOUBLE STANDARDS FOR WORKING MOTHERS

Our survey revealed that the number one reason holding people back from applying for flexible and agile working is a fear of appearing uncommitted to their work. And women are doubly disadvantaged as they feel they need to work equally, if not harder, than men to justify that they are not “distracted” from their personal life and caregiver obligations.

This is not a vague sentiment shared by a handful of women. In fact, Hong Kong's weak labour and discrimination laws mean hiring discrimination remains a real concern. A 2018 study conducted by the Equal Opportunities Commission (EOC) found that only 47% of Hong Kong employers interviewed about their ideal job applicant would hire mothers who had young children even if they were just as competent as other applicants. This finding is supported by the fact that the EOC each year receives gender discrimination complaints, of which 40% relate to pregnancies.¹⁰ There exists in Hong Kong an actual and unspoken hiring discrimination against working mothers whom employers stereotype as more likely to request flexible and/or agile working arrangements.

When comparing Hong Kong to other countries in Asia, a recent study by HSBC found that Hong Kong women (across industries) are the most willing to quit their jobs in the region: “[26%] of [Hong Kong's] working women said they would sacrifice their career for their children, contrasting with just 5% in mainland China.”¹¹ This is a significant difference for two regions with a shared Chinese culture. Among many other factors such as childcare and equal pay, women in Hong Kong are opting out because of the lack of flexible or agile roles and the stigma surrounding asking for a flexible or agile work arrangement. Women represent half of the workforce; yet achieve a fraction of the representation in the boardrooms of firms and organisations in Hong Kong. Without changing how we work, we will not be able to increase female representation.

“**[There is] discrimination against working mums and limited opportunities for promotion**”

10 Half of Hong Kong employers unwilling to hire women with children (South China Morning Post), August 2018.

11 Hong Kong women are the most willing to in Asia to quit their jobs for family, HSBC study finds (South China Morning Post), November 2018.

Which of the following statements most accurately describes any personal hesitation you may have to apply for flexible and/or agile working?
Please select all that apply.

1	"I am concerned people will think I am not committed"	22%
---	---	-----

Takeaway: Working women in Hong Kong experience a 'motherhood penalty' in their careers: there is a perceived and real bias to working mothers who take advantage of flexible and agile work arrangements. Hiring discrimination still exists where half of Hong Kong employers are unwilling to hire women with children. The legal industry has the opportunity to lead by promoting engagement with flexible and agile work policies in ways that best suit the lifestyles of its employees.

“ Even if you are totally unproductive during office hours, waltz in at 11am rather than 8am but stay in the office til midnight, that is rewarded, not coming in at 8am, working through lunch but leaving the office at 5:30pm to be a real mother ”

II. CULTURAL STIGMA: EMPLOYEES WORKING FLEXIBLY OR AGILELY ARE NOT AS CAREER HUNGRY

Our survey revealed that the second biggest reason holding people back from applying for flexible and agile working is the cultural stigma associated with this way of working in Hong Kong. Comments to our survey generally reveal that requesting or practising flexible and agile working infers a lack of serious commitment to one's career. This can disadvantage employees in promotion, pay, or even cost them the job itself.

In order for Hong Kong's legal industry to successfully implement widespread adoption of flexible and agile working, employers must dispel the misconception that a desire or need to work flexibly or agilely means a lack of commitment and drive. Overall, corporate culture has a large part to play, but changes by team leaders are the quickest and have the greatest impact on whether an employee believes a request for flexible and agile working will land well or be career limiting.

**Which of the following statements most accurately describes any personal hesitation you may have to apply for flexible and/or agile working?
Please select all that apply.**

2	"I feel there is a cultural stigma towards FW and/or AW in Hong Kong"	21%
---	---	-----

“ I feel there is a stigma towards [flexible and agile working] by my managers ”

“ I feel that I will be given flexible working which reduces pay but expectations will not change ”

This is not a gender specific problem. A mindset shift is required whereby flexible and agile working is viewed positively from recruitment to retention. The negative stigma surrounding flexible and agile working should be dealt with head on, looking at how requests for flexible and agile working impact on evaluations, promotions, and pay. Management and team leaders should lead by example and showcase success stories.

“

There is considerable stigma attached to FW and AW. There are many legal service providers who now offer short term arrangements but these come at discount prices. There will never be equality if this mindset of giving part time/flexible work in exchange for low remuneration does not change”

“

All people of my level said that our junior level is not entitled to enjoy flexible or agile working. The firm may fire me if I am the first one to apply for it”

Takeaway: *There is a cultural stigma in Hong Kong when an employee (male or female) requests to work flexibly or agilely as it infers a lack of serious commitment to one's career. Comments to our survey reveal individuals have held back from applying for flexible and agile working as they believe they will be disadvantaged in promotion, pay, or it may even cost them the job itself. Flexible working should be seen instead as employees offering enhanced efficiency on less time and pay.*

III. PREMIUM ON PHYSICAL OVER DIGITAL PRESENTEEISM

While lawyers in any city are known to work long hours, lawyers here often work not just Hong Kong hours, but those of Europe, the United States and beyond. Hong Kong's time zone difference and close working relationship with stakeholders abroad is such that on both deals and disputes, lawyers often work very early or late in the day.

Presenteeism in Hong Kong also takes on another meaning as it is firmly rooted in the Chinese cultural preference for “facetime.” Employees often feel their careers are rewarded only if they stay long after the boss goes home and this habit is embedded in Hong Kong's local office culture. Even where corporate flexible and agile working policies exist, employees often refuse to access these policies for fear of not appearing hardworking enough.

Which of the following statements most accurately describes any personal hesitation you may have to apply for flexible and/or agile working?
Please select all that apply.

3	"I feel my organisation puts a premium on being physically present in the office"	18%
---	---	-----

“ **Battling ‘old thinking’ and facetime expectations that think it means productivity if you are in the office vs. not** ”

“ **Working remotely often means working longer hours – I am ‘on call’ so it is difficult to disconnect** ”

In recent years, flexible and agile working has been praised as a way to maximise employee productivity and deter presenteeism by eliminating idle hours spent in the office. However, our survey revealed a more nuanced truth. A flexible and agile working schedule in fact opens up a new form of digital presenteeism that is exacerbated by today's technologies: the stress of being always digitally present. The division between work and personal life is much harder to separate when someone works flexibly or agilely and already feels that they must prove they are responsive.

This is best managed by managers respecting and employees maintaining personal boundaries around working and non-working time. As easily as technology can enable remote working, technology's ease of use can easily become all-encompassing. A practical solution could involve employees ensuring there is a way of contacting them (eg. providing a mobile phone number if the matter is urgent). This should temper the tendency for employees to always check emails and help them switch off outside of work hours/days.

“ I feel guilty when I'm out of the office. I worry that people don't believe that I'm still working ”

“ Agile working for me means being 'always on' ”

Takeaway: *Physical presenteeism is often equated with productivity. Yet, technological advances afford us a huge opportunity to modernise a conservative profession with outdated working practices. This requires a significant change in how managers perceive value. Often times, managers themselves work remotely and know it to be effective but are less prepared for team members to do so.*

IV. FOREIGN DOMESTIC HELPERS AND THE COST OF ELDERCARE

Foreign domestic helpers are an incredible asset and privilege for most working families with children in Hong Kong. Their primary duty is childcare and these “Aunties” or “Ya-Ya’s” are an integral part of Hong Kong’s society.

The value they bring to Hong Kong’s economy is in fact so much more: foreign domestic helpers enable women to return to work much more easily than in other cities. A Hong Kong government study estimated that only 49% of married females with children at prime working age participated in the labour force if they did not employ a foreign domestic helper. If a domestic helper were employed, this increased to 78%.¹²

Despite the availability of live-in help, women are still underrepresented in Hong Kong’s legal industry. A key factor is the lack of flexible and agile work arrangements. 82% of our survey respondents agreed that foreign domestic helpers impact the demand for flexible and/or agile working in Hong Kong. Comments reveal some employers dismiss flexible or

agile working requests, from men or women, deeming such requests unnecessary. Foreign domestic helpers do not substitute parenting, nor should employers deny flexible and agile working requests on this basis.

On the other hand is the issue of eldercare, which threatens to further shrink the female workforce. Hong Kong’s ageing population is estimated to account for one-third of Hong Kong’s population in 2060.¹³ The Women’s Foundation, HSBC Life and The University of Hong Kong (Sau Po Centre on Ageing) project that the number of caregivers who leave the workforce will increase significantly. Unpaid caregiving responsibilities will fall on women. Without sustainable flexible and agile working solutions, Hong Kong women will suffer a loss of income and career advancement (equivalent to HKD \$7.2 billion in 2060). This will come at a substantial cost to Hong Kong’s economy: organisations will spend an additional HKD \$8.4 billion in 2060 in lost productivity, recruitment and retraining.¹⁴

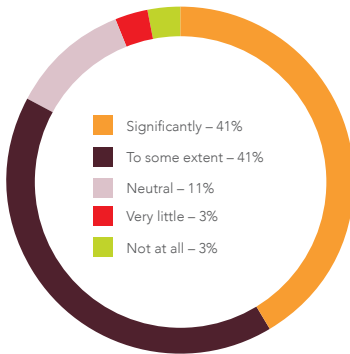
“**Employers assume that helpers substitute all aspects of parenting. But it is more than just pick up/drop off times but being there physically and emotionally for your kids**”

¹² *Half-yearly Economic Report 2014 (Government of Hong Kong Economic Analysis and Business Facilitation Unit), pg 75.*

¹³ *Hong Kong Population Projections 2017-2066 (Census and Statistics Department), 2017, pg 13.*

¹⁴ *The Projected Societal Cost of Eldercare in Hong Kong 2018 to 2060 (Eldercare Hong Kong), 2019, pg 6.*

To what extent do you think the presence of domestic helpers impacts the demand for FW and/or AW in Hong Kong?



Takeaway: Foreign domestic helpers are an invaluable feature of Hong Kong society, but should not be used by organisations as an excuse to hinder the uptake of flexible and agile working. Given Hong Kong's growing ageing population, flexible and agile working will future-proof the workforce.

“ Demand from employees is one thing, but the presence of domestic helpers definitely causes employers to be resistant to the idea of offering FW/ AW as employees cannot demonstrate a pressing ‘need’ (vs. ‘want’) to work FW (in particular) or AW ”

“ Top management feels there is no need to be flexible towards women ‘since they already have help at home’ ”

“ You have a helper, so why do you need to spend time at home? ”

V. COMMUTE

Long commute times are often a key incentive for the adoption of flexible and agile work models in other countries. In London, people commute on average for 1 hour and 21 minutes in total each day.¹⁵ In monetary terms, Londoners lose nearly HKD \$78,000 per year due to unpaid commute time.¹⁶ Such statistics have supported a healthy and growing flexible and agile working movement in the UK. Contrary to popular opinion, Hong Kong's average commute time is 1 hour and 13 minutes (see insert). However, requests for flexible and agile working may be written off by management because Hong Kong commute times are seen as short. In fact, an organisation's commitment to the quality of life of its employees ultimately makes for a more productive and efficient workforce.

The reality is that only a small minority of the workforce lives on Hong Kong island. As firms, banks and companies feel the squeeze on prime real estate space and relocate to Quarry Bay, Wong Chuk Hang and Kowloon, employees are increasingly expected to spend more time getting to/from work. Some of the most successful cases of flexible and agile working have been for IT or word processing teams where work-from-home arrangements increased productivity by 15-20%.¹⁷

Flexible and agile working translates to more active work time. Moreover, it may allow a parent to be there regularly for important children or family commitments (eg. bedtime), or enable a passionate hobbyist to fit in time for their activity or sport in lieu of commute time.

“

The partners here have refused to implement the UK policy in HK because ‘it is a different market’ citing [among other things] ... your commute is very short, so why would you need to work from home?

”

¹⁵ *Annual commuting time is up 18 hours compared to a decade ago, finds TUC (Trades Union Congress), Nov 2018.*

¹⁶ *Commuting costs UK workers £148bn in time alone (Randstad UK), 2018.*

¹⁷ *Case Study on Addleshaw Goddard, Manchester, UK (Agility Futures Forum), 2014.*

How long do people usually commute in Hong Kong by public transit everyday?



Source: Moovit Public Transit Index

Takeaway: The reality is only a small minority of the overall workforce lives on Hong Kong island and enjoys a short commute. Commute times for legal service workers is increasing too as offices migrate east and south of Central. Productivity can be enhanced with flexible and agile working which turns commute time into active work time.

PART 4

Recommendations and Action Steps

Our survey results shed light on the unspoken biases and practical challenges of engaging flexible and agile working in Hong Kong's legal industry.

The two greatest obstacles to uptake of flexible and agile working in Hong Kong are 1) the lack of top management support and/or engagement, and 2) the negative stigma of flexible and agile working. These results are telling: changing organisational cultural and work expectations are essential. This section provides substantive recommendations for how flexible and agile work can best be implemented in Hong Kong's legal industry.

Successful implementation of flexible and agile work requires:



Strong leadership to model FW/AW and promote uptake



Supportive organisational culture that normalises FW/AW

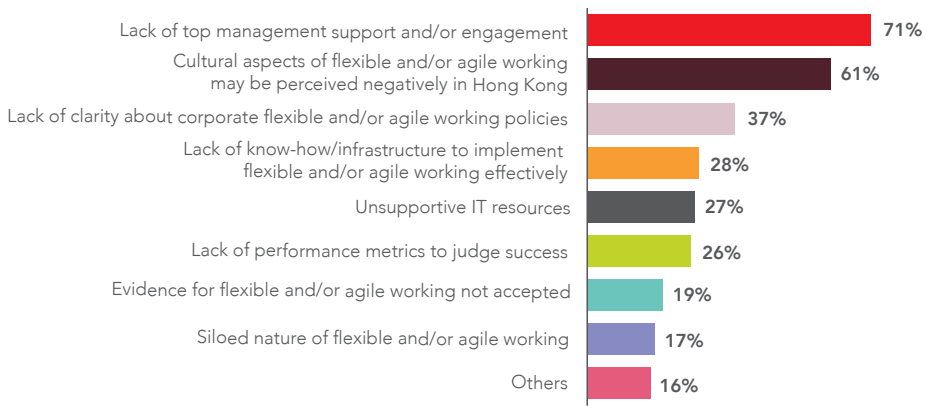


Managerial capacity to manage FW/AW teams



The right technology and infrastructure

Which three of the following statements do you think are the greatest obstacles to flexible and/or agile working from becoming more prevalent in the legal profession?



Action Steps:

1. Organisations must, at a minimum, implement a range of flexible and agile working policies designed for individual employees' working styles and lifestyles, thereby empowering employees to request flexible and agile working
2. Corporate and team culture around flexible and agile working must change, led by management modelling and advocating the day-to-day adoption of flexible and agile working

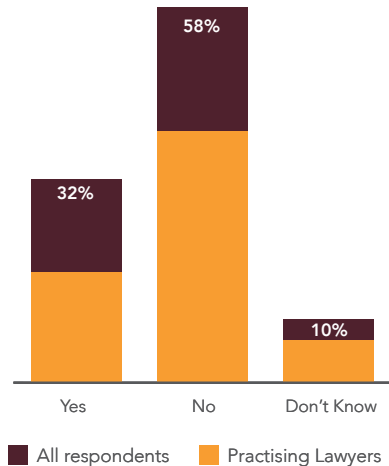
I. MANAGEMENT SUPPORT: “LEADERS LEAVING LOUDLY”

71% of our survey respondents cited the lack of top management support and/or engagement as the legal industry’s greatest barrier to adoption of flexible and agile working. This demands a practical solution.

WILHK advocates “leaders leaving loudly,” a management policy popularised by PepsiCo Australia & New Zealand in 2015. This approach encourages management to announce when they’re leaving early and why. Within two years, PepsiCo reduced its employee turnover from 12% to 7%.¹⁸

When leaders role model flexibility, there is a trickle-down effect reducing the pressures of presenteeism. Over time junior and support staff will also feel empowered to follow suit. 32% of survey respondents had line managers working in a flexible or agile way. These individuals felt strongly or agreed that flexible and agile working arrangements were successful in their organisations. Conversely, those whose line manager did not work flexibly or agilely tended to be less enthusiastic when answering the same question.

Does your line manager work in a flexible and/or agile working arrangement?



18 [Why PepsiCo CEO asks his team to 'leave loudly' \(News.com.au\), September 2017.](#)

Our survey found that fee-earning is not a bar to flexible and agile working: 55% of survey respondents who answered “Yes” to whether they have a line manager working in a flexible and agile working arrangement were practising lawyers.

In practice, managers can spur flexible and agile working habits by practising a verbal send-off announcing their departure and block off time in their calendars on a public setting so others can see they are leaving work early. Careful messaging is required in tandem to encourage juniors to do the same. These simple actions help to normalise and remove the stigma of flexible and agile working by acknowledging that everyone leads busy lives outside of work, whether that is caring for children and elders, studying, volunteering, or pursuing a hobby.

Strategies for good leadership:



Create a collaborative and goal-oriented environment



Speak positively about flexibility



Role model flexibility



Prioritise flexibility



My firm only pays lip service to these arrangements – ultimately it boils down to your line manager and to be honest, the line managers tend to practise what the programme says but preach to not follow their practice



Takeaway: Nearly two-thirds of our survey respondents cited the lack of top management support and/or engagement as the greatest barrier to the adoption of flexible and agile working in Hong Kong. “Leaders leaving loudly” is a practical solution that removes the stigma and encourages flexible and agile working.

II. BUILDING A TEAM CULTURE OF FLEXIBLE & AGILE WORKING AND LEARNING TO MANAGE FLEXIBLE TEAMS

A good team dynamic is key to implementing successful flexible and agile working.

Our survey identified the negative cultural stigma towards flexible and agile working in Hong Kong as the second greatest obstacle to it becoming more prevalent. The way managers lead their teams can change entrenched prejudice.

Yet, we cannot expect all managers to intuitively lean into flexible and agile working. Leading a flexible team presents new challenges. Training is necessary to learn how to implement and foster the right team environment. Managers must also educate their team on the benefits and challenges of flexible and agile working to ensure colleagues are on board.

Managers must adapt their management style for employees to operate more autonomously. This adjustment requires clear communication of expectations and holding staff accountable. Employees also want to receive factual feedback on how they are tracking against their performance objectives. Setting clear standards promotes employee morale, reducing burnout.¹⁹ Physical presence may also be a concern that

affects team morale. Agreeing in principle on certain days to be present in the office creates consistency, manages expectations and is useful for organising meetings.

Pushback to flexible and agile working requests may not only come from management. Comments to our survey revealed that team members may feel aggrieved that the same flexible or agile working policy has not been

“ I found myself having to explain and discuss with team members individually to ensure that they understood the merits and benefits that the policy may bring to the firm and the team. Their willingness to support the relevant colleagues as necessary is key to the successful implementation of any flexible and agile working policy ”

¹⁹ *Four things employers should know about the benefits of a flexible work culture*. (South China Morning Post), 2017.

offered to them, particularly when deployed by colleagues with similar job role, functions or personal circumstances. Team members may also fear that colleagues working flexibly or agilely may create heavier workloads for themselves. Flexible and agile work arrangements should be offered fairly to all

applicable employees to avoid resentment. Addressing such sentiments in open discussions allows employees to voice their concerns. To ensure success, a collective strategy for how the team can stay cohesive and continue to deliver the same quality of services is critical.

“ **Managing other peoples' expectations, re-arranging meetings and explaining to others about not being in the office can be difficult and not widely understood** ”

Strategies for good team culture:

 Policies and practices are consistently monitored and evaluated	 Enable informal and open discussions for teams to stay cohesive
 Visible support from leaders/colleagues	 Ensure technology helps employees to deliver quality of services expected
 Clear policies around promotion and compensation when working flexibly	 Provide clear feedback on how employees are tracking against performance objectives
 Support employee priorities of career progression	

Takeaway: Flexible and agile working is only as successful as the teams and leaders supporting the employees. Building good corporate culture and trust requires time and management training so that leaders can enable teams to stay cohesive and deliver the same quality of service.

III. SETTING UP FLEXIBLE & AGILE WORKING FOR SUCCESS

1. Clarity of policies must be team-specific

Our survey respondents identified the lack of clarity on corporate flexible and/or agile working policies as the third greatest obstacle to its increased adoption in the legal industry. Employees are often unsure if or how their manager and team will support the firm's formal policy on flexible and agile working. As such, managers should initiate discussion to clarify expectations of working flexibly or agilely and the nuances of performance tracking, promotion and compensation.

2. Default 'yes' to FW/AW requests

A common misconception is that formal flexible and agile working policies are for employees with extenuating circumstances whose family, health, or caregiving responsibilities require a flexible or agile work arrangement. Organisations committed to normalising flexible and agile working should assume a default 'yes' response to requests. This levels the playing field and eliminates difficult situations where managers are seen as biased

to certain employees' flexible and agile working requests over others.

3. A (mandatory) trial period jumpstarts FW/AW work habits

Telstra, an Australian telecommunications company, exemplifies an international organisation that successfully converted its Hong Kong headquarters to a flexible office. It set an ambitious goal to deploy "All Roles Flex" in all business units in a four month period after a trial period of three months showed engagement levels of those working flexibly or agilely were higher than Telstra employees overall.²⁰ The lesson here is that a trial period, ideally 3-6 months, allows managers and employees to foster flexible and agile work habits. Such trial periods are an opportunity to learn what works in terms of management style, communication tools, project allocation, logistical aspects (ie. remote access and physical meetings) and so on.²¹ A report by PwC and The Women's Foundation on gender diversity in Hong Kong's financial services sector went further to suggest that running a compulsory

20 *Case study: An inside look at Telstra's flexible working policy (Human Resources Online), 2017.*

21 *Manager Flexibility Toolkit (Australian Government; Workplace Gender Equality Agency, p. 6.*

trial period, for example mandating “that all employees work from home for a given period, e.g. one day a month for a six month term” is key to shifting the organisational mind-set.²²

Eversheds Sutherland's Cambridge, UK office also ran a mandatory trial period to boost engagement in flexible and agile working. They encouraged employees to try any type of flexible working in an eight-week period. Only a simple record sheet was asked of employees to track the types of flexible working they tested for the purpose of measuring impact. The results of the trial period revealed increases in productivity and elimination of the perceived barriers to flexible working.

4. FW/AW requires a holistic approach

Deloitte is another organisation that has converted to agile working. A primary driver was to refocus the company's principles on the outcome of work, rather than the input of working hours. Furthermore, it quickly became apparent that flexibility and agility cannot be silo-ed to core delivery teams or job roles. Flexible and agile working must occur across support functions, such as IT, marketing, property services and other internal departments.

Only by taking into account the dependencies on other departments can a flexible and agile working organisational transformation succeed.²³



We urge our people to trial new ways of flexible working and to take a guilt-free attitude to flexibility, because it improves productivity, engagement and results for customers

– From Telstra's “All Roles Flex” Policy²⁴



22 *Gender diversity in the Hong Kong financial services sector: Moving from conversation to action (PwC and The Women's Foundation), 2019, p. 31.*

22 *Based on its experiences, Deloitte published a useful organisational roadmap: Agile Transformational Approach (Deloitte), 2017.*

24 *Careers: Why Telstra, Flexibility and Choice (Telstra).*

“

In a big organisation like Deloitte, there will be pockets that are more resistant to change. The objective here is to focus on some practical but impactful actions, creating a wave of cultural change, which washes over everybody and becomes accepted as part of the way we do things here. It becomes part of the collective story that people tell and isn't questioned so much... we're now focusing more on giving people principles to work from

– Caroline Hunt, Head of Client Service Human Resources, Deloitte

”

“

C-suite [should] support the launch and drive the initiative, with business leaders to oversee implementation. However, do not wait to get everyone on board. Convincing all leaders that 'All Roles Flex' was a good idea was too tall a challenge. Well entrenched views are best changed by just forging ahead

– Lynne Barry, Global Head of Learning and Development, Telstra²⁵

”

Takeaway: Best practice shows the importance of a (mandatory) trial period of ideally 3-6 months allowing managers and employees to foster flexible and agile work habits. Transforming to a flexible and agile working organisation requires a holistic approach and clarity around how, where and when people will be working. It includes support functions, such as IT, marketing, property services and other internal departments.

25 *Case study: An inside look at Telstra's flexible working policy (Human Resources Online), 2017.*

IV. EMPLOYEES NEED TO EMBARK ON FLEXIBLE & AGILE WORKING WITH THEIR BEST FOOT FORWARD

Many employees believe that flexible or agile working will be a cure-all for balancing their competing work-life obligations. Initially, it may seem great not having a specific time to rush to the office and no guilt having to leave the office early to take a pet to the vet or watch a child's basketball game. And on the flip side, many relish the "quiet time" of working away from the office away from the distractions of unexpected drop-ins, phone calls, and office politics. In reality, managing a flexible and agile schedule isn't simple and the increased autonomy is a mixed blessing. Managing a flexible schedule requires a strong balance of managerial trust and personal accountability.

1. Establish a routine

Starting the day at the same time and with the same routine (ie. reading the news or catching up on emails) primes our minds into a working mode. In fact, following a routine is akin to establishing a pattern of behaviour; a key to achieving productive goals. Individuals often seek out flexible or agile working to juggle a

myriad of other responsibilities or personal interests. The autonomy to plan one's day or week around these competing priorities can be difficult. Caregiving responsibilities can easily become distractions and delay completion of work tasks with "less-pressing deadlines." Maintaining a daily routine is helpful in holding yourself accountable to get work tasks done even without a schedule dictated by your employer.

2. Using external cues to establish a working mindset

Similar to using a routine to signal the start of the workday, take note of the external cues that could be distracting you from a more productive day. As simple as it sounds, getting showered and dressed signals to yourself that "the work day has begun." Research has shown that wearing formal clothes is positively correlated with a person's ability to engage in abstract thought.²⁶ Another important external cue is designating a working area. This could be a quiet coffee shop or a specific space at home.

²⁶ *The Cognitive Consequences of Formal Clothing* (Slepian, Michael et al, *Journal of Social Psychology and Personality Science*), 2015.

These external cues help create a state of mind that prepares you for and signals the work day ahead.

3. Avoid burnout with open communication

A flexible and agile work schedule that lacks a hard stop to the day, can make it difficult to remember that the work day is over. Compounded by the fact that those working flexibly or agilely report pressures of always being 'on' to justify their productivity, burnout is possible. Trust is best maintained with open communication so keep your team and boss updated on your progress and deliverables so that you can truly turn off at the end of the work day.

Takeaway: *Managing a flexible and agile work schedule requires thought and care. Establishing a routine promotes effective remote working.*

“ **Being able to carve out time away from the office... really enables me to focus more, away from the daily interruption of the office and footfall at the desk** ”

“ **Working from home can be stressful when the kids get home and I have to be willing to work elsewhere** ”

“ **Working remotely is helpful but the lines between work and non-work are blurred** ”

“ **Working part time I have to plan better, prioritise and be more strict about when I am working and when I am not.** ”

V. CHANGE PARENTAL LEAVE POLICIES

Shared parental leave policies and flexible and agile working are linked. Both are enablers of gender balance and the former encourages broader uptake of the latter. Indeed, countries and employers which promote progressive parental leave initiatives have a higher incidence of flexible and agile working across genders: think Sweden and Patagonia Inc.²⁷

Hong Kong recently saw changes to its statutory parental leave entitlements. As of January 18, 2019, statutory paternity leave increased from three days to five days.²⁸ Hong Kong's Chief Executive, Carrie Lam, also announced at the end of 2018 that Hong Kong's statutory maternal leave would be increased from 10 weeks to 14 weeks. However, the bill will likely not come into effect until 2020. These are landmark changes as Hong Kong's parental leave legislation has not changed substantially for the past 48 years, except for mandating paid leave in 1981.



Focus on encouragement of men to participate in child-rearing and taking FW/AW arrangements, taking parental leave will reduce stigma of it being a 'women's thing', and reduce inherent bias against women in workplace as a result. Women need to make equality in child-rearing at home a priority as the push is unlikely to come from workplace.



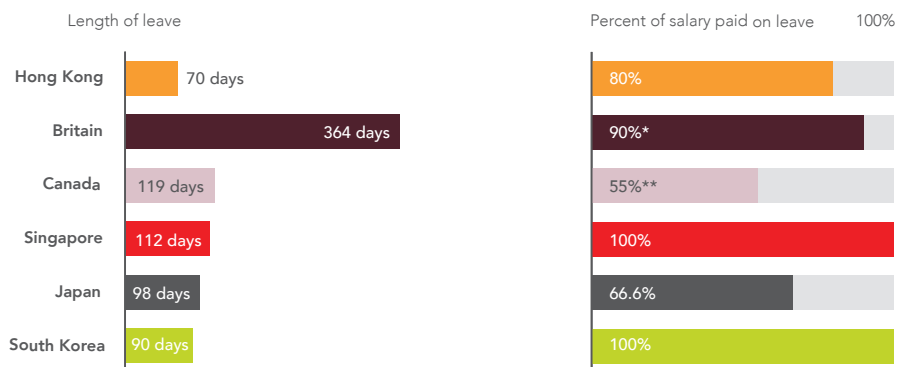
²⁷ *How Stockholm became the city of work-life balance (The Guardian), May 2019; Family business: weighing the business case (Patagonia Inc.), August 2017*

²⁸ *Five-day statutory paternity leave to take effect on January 18 (Hong Kong Government Press Release), 2019.*

These current legislative changes will finally bring Hong Kong in line with standards outlined by the International Labour Organisation (ILO). A 2014 study by the ILO found that over 50% of the 185 countries surveyed provided maternity leave of 14 weeks or more. Hong Kong was among the

bottom 15% (27 countries) that provided less than 12 weeks of maternity leave.²⁹ While the public sector has stepped up, the private sector also has an important role to play. Corporate parental leave policies are critical for shifting societal expectation to a more shared system of parenting from the get-go.

Maternity leave policies worldwide



* 90 percent for six weeks; then £145.18, or 90 percent pay if lower, for 33 weeks; last 13 weeks unpaid
 ** 55 percent for 15 weeks, then unpaid for two weeks

Source: SCMP, Hong Kong's Legislative Council

29 *Maternity leave in Hong Kong: Can Chief Executive Carrie Lam bring city in line with Singapore and South Korea without riling the business community?* (South China Morning Post), October 2018.

Case study: Herbert Smith Freehills

In the legal industry, Herbert Smith Freehills has taken the lead by introducing an Asia-wide shared parental leave policy in 2019. This is applicable to all employees at all levels, regardless of gender, sexual orientation or parenting circumstances (biological, surrogacy, adoption, etc.) The policy abandons concepts of “maternity” and “paternity” leave. Instead, it is framed by reference to “primary” (24 weeks) and “secondary” (3 weeks) caregivers. The primary caregiver's leave can be shared between parents whether both are employees at the firm or only one is.³⁰

For example, a female (A), employed at another firm, will take 14 weeks maternity leave as provided under her employer's policy. Her partner (B), an employee at Herbert Smith Freehills, notifies Herbert Smith Freehills that he/she will be the secondary caregiver for the purposes of the policy and A will be the primary caregiver. B is entitled to 3 weeks secondary caregiver leave (to be taken at any stage). In addition, B may take the remainder

of the 24 weeks primary caregiver's leave, eg. 10 weeks (to be taken after A returns to work from her maternity leave). The greater adoption of similar policies by firms and organisations will allow shared parental leave to permeate across the industry in Hong Kong and more widely across Asia.

This is a strong step towards normalising and valuing flexible and agile working regardless of gender. The earlier fathers are involved with their child's upbringing, the more likely their involvement will continue throughout their child's life. This has long-term benefits for rebalancing gender work and home expectations. This should free women up to continue their careers and encourage men to share the burden of caregiving responsibilities. Simply put, achieving greater gender parity at home will help support greater gender parity at work. Moreover, equal opportunities should mean equal pay and equal representation of women in senior management.

30 *Herbert Smith Freehills launches parental leave sharing for all Asia employees (Herbert Smith Freehills), March 2019.*

“

Our shared parental leave policy responds to our people's needs and challenges established norms in Asia and around the world as to who should bear primary childcare responsibilities. It makes sure that everyone, regardless of gender, role or personal circumstances, has the chance to balance work and parenting.

I hope one legacy effect of this policy is that other firms and organisations adopt similar approaches, leading to wider societal change in this area across Asia

– David Phillips, Head of Human Resources (Asia), Herbert Smith Freehills

”

Takeaway: Shared parental leave policies allow men to take up greater responsibilities in childcare. This has immense benefits for rebalancing gender work and home expectations. Achieving greater gender parity at home affords women more balanced opportunities, pay and representation at work.

VI. PRACTICAL TIPS FOR DEPLOYING FLEXIBLE & AGILE WORKING

Things employers could consider in devising a flexible and agile working policy

1. Set out purpose (eg. to promote a sustainable working environment allowing more control over how and where employees work, based on mutual trust and communication).
2. Define FW/AW.
3. Define eligibility (roles excluded if any, eg. trainee roles may be excluded for regulatory supervision requirements and some support roles may require physical presence).
4. Right to request FW/AW provided employee's role is compatible with working arrangements requested.
5. Each application to be judged on its merits assessing nature of role, level of supervision required, and potential impact on clients, the business and other employees.
6. Arrangements should usually be trialled first so that both employer and employee may review the arrangement after a reasonable time (eg. three to six months).
7. Flexibility is required on both sides and any arrangement is subject to business and client needs (including changing the arrangement).
8. Right of employer to update the policy.
9. Provide contact details of employees already working on a flexible or agile basis to provide guidance local HR managers to advise.
10. Separate guidelines on remote working expectations (eg. confidentiality, IT/phone access, no interruptions etc).
11. Separate form for staff to submit request for FW/AW.
12. Try to deal with requests for FW/AW in a timely fashion (eg. 4 weeks).
13. Consider a FAQ sheet and "champions" network to promote more FW/AW.

Things employees could consider when requesting AW/FW

1. Are you looking for a contractual change in your working arrangement or an ad-hoc arrangement?
2. Be prepared to discuss various options with your line manager / HR including:
 - a. Impact on others (clients, business, colleagues)
 - b. How will you deal with time-critical tasks/ periods?
 - c. Will the change require a change in the nature of your work or supervision?
 - d. Your flexibility to vary arrangements (eg. non-working/agile working day to meet client/business needs)
 - e. Your remote office set up (confidentiality, IT set up, phone access, no interruptions for child/elderly care etc.)
 - f. Impact on your salary/benefits of new arrangement (eg. move to part time).
3. Agree with your manager(s) or supervising partner(s) the broad parameters of your working arrangement and make everyone aware of it (eg. message team, mark status on internal outlist, put note on office door, forward office phone, do not put on out of office).
4. Once an arrangement has been agreed in principle with line manager, record details on a form signed by both parties, with a copy to HR. NB FW may involve a change to your contract of employment.
5. Trial should start – work hard to make it a success. Remain flexible and have good communication.
6. If unable to reach agreement, try to explore what would be workable on a trial basis for both employer and employee. Involve HR as appropriate.

ACKNOWLEDGEMENTS

WILHK would like to thank Relativity and Eureka Consulting Group for their assistance in analysing the survey data and assisting with our research. In addition, WILHK would like to thank Allen & Overy and Herbert Smith Freehills for respectively formatting the report and creating the infographics. Without the contributions of these supporting organisations, this report would not have been possible. Finally, WILHK is indebted to Michelle Fung (WILHK's flexible and agile working team lead) for her tireless work and commitment to this project. Without her incredible contribution in writing this report, we would not have this important publication. Thank you, Michelle.



ALLEN & OVERY



HERBERT
SMITH
FREEHILLS

DISCLAIMER

The information in this report is not legal advice. The report reflects WILHK's opinions, not those of the organisations employing its committee members. Any errors are our own and the figures are subject to rounding adjustment. For full details of the survey and modelling, please contact WILHK (info@wilhk.com) for a copy of the full survey questions and results.

June 2019





