

Law Firms Still Struggle To Devise Remote Work Policies

By **Emma Cueto**

Law360 (December 7, 2022, 10:24 AM EST) -- Nearly three years after the start of the COVID-19 pandemic caused a seismic shift in the nature of work, the balance of remote and in-office work is still in flux for most firms, according to industry experts, who say many firms are still struggling to land on an approach that works for everyone.

Although return to office has been a recurring topic of discussion throughout 2022, there is no industry consensus on what law firms' work-from-home policies should be, with different firms taking different approaches and many firms still changing and updating their policies. By some accounts, Mid-Law firms have been better able to adapt and evolve, but experts say firms across the industry have wrestled with the question.

"My sense is that firms are taking different approaches and learning as they go and trying to figure out what is the best approach for their firm," said Jennifer Leonard, the chief innovation officer at the University of Pennsylvania law school and executive director of the school's Future of the Profession Initiative. "I don't get the sense that there is one approach."

The COVID-19 pandemic forced attorneys to work from home abruptly in 2020, but it has taken much longer to **arrive at a new normal**, both because of the risks of the virus as the pandemic has evolved and because many attorneys are less than eager to return to the office.

Over the course of 2022, firms have **tried out different policies**, with some taking a **harder line than others**. But no standard approach has emerged.

Some experts say midsize and regional firms may have done a bit better at adapting, with their smaller size allowing them to be more nimble. However, no consensus has arisen among Mid-Law firms either.

Melody Eagan, managing partner of Alabama litigation boutique Lightfoot Franklin & White LLC, told Law360 that the firm has been flexible and has not introduced a formal policy. Most attorneys are in the office most days, but are allowed to work remotely a couple days a week. So far, she said, that system is working well for the firm.

By contrast, midsize firm Benesch Friedlander Coplan & Aronoff LLP has been tweaking its official policy over the course of the year, firm head Gregg Eisenberg said.

It originally mandated that attorneys and staff be in the office on Tuesdays and Thursdays, allowing them to work wherever they wanted on the other days. But after attorneys' in-office days turned into nonstop meeting marathons, the firm also started mandating in-office Wednesdays, an approach similar to recent plans unveiled by **several BigLaw firms**.

Other firms have tried simply mandating a certain number of in-office days without specifying days of the week, or have let different groups or teams decide for themselves which days attorneys should be in the office. At least one, Seward & Kissel LLP, has also chosen to **go back to fully remote work** during specific times, such as the month of August and the week of Thanksgiving.

Evan Parker of Parker Analytics said part of the difficulty of landing on an approach is that, according to his research, many attorneys seem to have different desires than firm leaders.

"When you ask people questions like 'How many days do you need to come in to do your best work?' unsurprisingly, the number is not five," he said. "The number is not even three." In fact, he said, it's closer to two.

But the average number for partners tends to be higher, he added — in fact, roughly one day higher than the average for nonpartners.

Other research has found similar results. An American Bar Association survey **released in September** found that remote work is particularly important to younger attorneys, with 44% of attorneys with 10 years or less of experience saying they would leave their current role for a remote opportunity, compared with less than 20% of those with more than 30 years.

Robert Hirshon, a professor at Michigan Law, told Law360 that remote work is something of great interest to his students, especially female students.

"Culturally, they're expected to hold down the family, to be there to raise the kids," he said. "They see remote work as an alternative to that lousy dichotomy" of the partner track and the so-called mommy track.

He's seen firms that try to force people back into the office get pushback from younger attorneys. Attorneys have taken note that many firms have had exceptionally good years financially while largely working remotely, he said, which undermines the business case for bringing people back into the office.

Leonard at the University of Pennsylvania described hearing similar complaints from students and alumni.

"I think firms are getting smarter," she said. "Earlier this year ... some firms were **relying on things** that were attractive to attorneys before the pandemic and trying to apply those practices post-pandemic. And that is not a winning solution."

Whereas attorneys and staff might once have appreciated something like "Taco Tuesdays" or a happy hour with the partners, she said, those are less attractive in a post-COVID world.

"Pre-COVID, if you're already there, that's fun," she said. "But if you're sitting on your couch, and you can get tacos at home, that's not a draw to the office."

Associates in particular, she said, seem skeptical of the messaging they're hearing from firms about the need to return to the office. For many, she said, what firms have been saying about the importance of in-office work doesn't line up with their actual experience.

However, experts pointed to some factors that might increase firms' odds of successfully sticking the landing when it comes to remote work policies.

Leonard noted that she has been seeing a shift in attitude among recent graduates, who are looking for more mentorship and training.

Hirshon echoed that idea, noting, "Everybody admits that the mentorship cannot really occur remotely."

Structuring a remote work policy to foster mentorship and training, Hirshon and Leonard said, could help firms find a route that people view favorably.

Parker said one of the most interesting findings from his research was that attorneys who were more engaged and happier in their jobs were more willing to work from the office. Making sure that attorneys have interesting work, that the firm is communicating well, and that attorneys feel valued might not seem directly connected to the return-to-office question, but they can increase happiness and engagement, he said, which then affects attitudes towards remote work.

"If you want people in the office," he said, "they have to want to be there."

Kathleen Fredrickson, also of Parker Analytics, said there has been a palpable increase over the last two years in people wanting to feel valued.

"Now that the crisis has passed and [attorneys] did great legal work, they want to feel appreciated," she said. "These are simple, human things to do — but they're the hardest thing for law firms to do."

It is likely that firms will continue to adjust their approach, experts said — and it is possible that there won't be a general industry consensus, or that it will take a long time for one to emerge.

And it is also very possible that the pandemic will continue to disrupt firms' plans, whatever they may be. Eisenberg noted that Benesch is expecting a possible winter surge of COVID-19 that might make the firm go fully remote again, as it did with the omicron variant.

"We're going to monitor," he said, "and do what's in the best interest of our people."

--Editing by Marygrace Anderson and Alyssa Miller.