gadens

Beyond Flexibility: Managing Risk and Compliance in Hybrid and Remote Work

Kiri Jervis

HRM@Work – 9 April 2026

In NSW, QLD, SA, VIC and WA: Liability limited by a scheme approved under Professional Standards Legislation.

gadens

Overview

1. Introduction
2. Recent legal developments
3. Regulator expectations
4. Emerging risk areas

gadens

Introduction

- Australian workers are working from home (in some capacity) in numbers similar to during the pandemic – a drastic increase from pre-pandemic numbers
- Employers and workplaces have had to adapt – managing risk and ensuring compliance
- Compliance with flexible work arrangements and WHS obligations

gadens

Recent legal developments

Changes to laws in certain jurisdictions as well as cases decided by the Fair Work Commission and state tribunals provide guidance to employers in terms of their duties in managing risks to remote workers.

Victoria: Right to WFH

- Amendment to the Equal Opportunity Act – expected that it will be effective from 1 September 2026

NSW: Digital Work Systems

- *Work Health and Safety Amendment (Digital Work Systems) Act 2026* (NSW)

Cases

- *Darren Huxhagen v Allianz Assistance* [2026] FWC 745
- *Johnson v PaperCut Software Pty Ltd* [2026] FWC 178
- *Local Government Association (City of Charles Sturt) v Vercoe & Return to Work Corporation of South Australia* [2025] SAET 135

Regulator expectations

gadens

WHS Obligations

- SafeWork Australia: WHS obligations apply for employers even where workers are working remotely
- Regulators in each state (SafeWork NSW, WorkSafe QLD and WorkSafe Victoria) have policies discussing how employers and workers can ensure compliance with WHS obligations when working remote
- Common expectations across regulators:
    1. Communication
    2. Employee obligations
    3. Hazard management
    4. WHS Working from Home Checklist
    5. Safety and Security Checklist for Remote Workers

Flexible Work Disputes

- Fair Work Act: workers can request flexible work arrangements
- Fair Work Ombudsman: Best Practice Guide for Employers in Managing Flexible Work Arrangements

gadens

Emerging risk areas

Psychosocial Hazards

- Physical isolation
- Blurred boundaries
- Overwork

Overtime Work

- ABS (August 2025): 42% of people who worked from home worked overtime, compared with 26% of those who did not work from home

Workplace Surveillance

- Risks in relation to digital monitoring tools for remote workers

gadens

Conclusion and Practical Guidance

Consultation and communication

Ongoing monitoring of hybrid and remote workers

Effective flexible work policies

gadens

Key contacts

Kiri Jervis
Partner
+61 2 8349 3613
kiri.jervis@gadens.com

gadens

Office locations

Adelaide
Level 1
333 King William Street
Adelaide SA 5000
+61 8 8456 2433

Brisbane
Level 11, ONE ONE ONE
111 Eagle Street
Brisbane QLD 4000
+61 7 3231 1666

Canberra
Level 1
55 Wentworth Ave
Kingston ACT 2604
+61 2 6163 5050

Melbourne
Level 13, Collins Arch
447 Collins Street
Melbourne VIC 3000
+61 3 9252 2555

Perth
Level 27, Palace Tower
108 St Georges Terrace
Perth WA 6000
+61 8 6317 6500

Sydney
Level 29
8 Chifley Square
Sydney NSW 2000
+61 2 9231 4996