Law Institute Victoria

# Bendable or expendable?

## Practices and attitudes towards work flexibility in Victoria's biggest legal employers

2006 Report – A joint project of the Law Institute of Victoria and Victorian Women Lawyers

Victorian Women Lawyers

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# Introduction

Legal workplaces are places where the intellectual property of employees is paramount, where the very viability of the law firm depends on the keen minds of its employees. It is a sector that makes a significant investment in those intellects from the moment they set foot in the firm that finally employs them.

It is also a sector that has been acutely aware of the dearth of women in its senior ranks – particularly when compared to the junior ranks of the profession, where more than half of employee lawyers are women. LIV data shows that practitioners aged 40 and under comprise 47% or nearly half of the practising lawyers in Victoria, and 66% of all women practising in the law in Victoria. The percentage of 40 years and under lawyers that are women is 56% – a proportion that dwindles to 25% for the over 40s women in the law. The largest decline occurs around age 40, when the number of women practising halves; at the 50 year mark that number halves again to about 340 practising women lawyers, compared to more than 1400 men in the law aged between 50 and 60 years of age – the largest group in the profession in Victoria in the age/ gender nexus.

The good news from this research is that female partnership levels sometimes (although rarely) reach 25% at the top level. Based on an analysis of practising certificate information current at December 2005, 14% of partners in firms are women (that is, 280 women in the law have reached partnership in a firm, compared with 1684 males). The proportions are slightly improved in the ranks of sole practitioners – where 22% of sole practitioners are women (or 519 women). According to research by the Equal Opportunity for Women in the Workplace Agency (EOWA) in 2004[1] about 10% of executive management in Australia's top 200 ASX companies are women. In the same research, EOWA reported that 42% of those companies had no women in the top positions. This research shows that for law firms in Victoria with more than four partners, the majority have at least some women in partnership positions – whatever the numbers of them are; and that compared with the ASX top 200, the law in Victoria has slightly better representation of women at the top.

It should be noted that the fundamental difference between partnership arrangements and the ASX company research is that in a private practice, partnership *is* ownership of the business. Given the possibilities of being an equal owner in a business – a concept often linked with the ability to set your own terms and mould the business to suit your own needs – this is an interesting point to consider.

The law is also a profession grappling with generational change, where the aspirations of current middle and junior ranking lawyers are unlike those of the generations that went before them. What generation X and Y want, and expect, out of a career in the law is quite different to what the baby boomers and the veteran generations expected and wanted. Probably the most significant difference is the career and job changing behaviour of current generations; they don't go into the law expecting to stay, or even if they do, they don't expect to stay with a single employer. What current research on generational change consistently shows as a key difference is that the X and Y generations do not define themselves by their work, and they expect to change jobs and careers several times in their working life 'Happy' generation X employees expect to stay with the same

[1] EOWA 2004 Women in Leadership Census: http://www.eowa.gov.au/Information_Centres/Media_Centre/Media_Releases/2004_Australian_Women_In_Leadership_Census.asp.

employer for between 2 and 5 years, and 'happy' generation Y employees about 2 years.[2] This does not just have implications for larger employing firms – but also for smaller firms because it begs the question: Who will be there to take over (or buy out) smaller practices in the future? Further, generation X and Y tend to view employers and organisations as uncaring about people (and them) and to behave accordingly; they value family above their work and, while generation X have tended to delay parenthood, indications are that generation Y believe earlier is better.

This is against a backdrop in which legal sector employers have become accustomed to high 'churn' rates of personnel –between 20% and 40% – which translates into a complete renewal of a firm's workforce around every five years or so. This is a distinguishing feature in the profile of the legal sector – few other sectors can cite this kind of turnover. However, for firms the key point in this level of turnover is that it adds up to money wasted on the bottom line: the investment in a firm's human capital is squandered with every departure, and they are a relatively frequent event.

The law is also a profession in the mature phase of the industry cycle.[3] There has been significant reform and change in the sector, as well as a high level of fee-based competition between firms and a more sophisticated market in terms of expectations of the manner and delivery of legal services. The competition for quality employees is high and local employers increasingly compete with overseas opportunities for law graduates and younger lawyers. Across all industry sectors, the issue of an ageing workforce looms – while it may seem (based on the numbers of graduates emerging from universities compared to positions available) that this will always be 'the way it is', the fact remains that at some stage the competition to keep younger employees will increase, even as the generational aspirations and priorities of employees change. Some areas of work which were exclusively the province of lawyers are no longer so – for example, conveyancing and intellectual property. Productivity gains from technology have reached the bottom line of firms. In a mature industry, all that remains is productivity gains through improvements in work practices, or in the way firms are structured and conduct their business.

The level of 'unhappiness' in the legal sector is a frequent source of discussion and one that research currently underway will quantify and articulate as cause for concern – not least because unhappy employees mean less productive employees. Depression among lawyers is another subject beginning to emerge as a real and serious problem for the profession to tackle with lawyers singled out as the profession 'most likely' to suffer from the illness[4]. Long hours of work (with the related lack of work/life balance) are one of the major contributors.

In light of all these factors, how does a profession adapt to meet the emerging needs of its workforce? And how well is it measuring up now?

Family issues remain a 'BBQ stopper' and in the Victoria legal sector there has been much discussion about 'work/life balance' and how this is being achieved (and how well). The most recent analysis was the Victorian Women Lawyers' report, *A 360° Review: Flexible Work Practices. Confronting myths and realities in the legal profession.* launched on 11 November 2005 by Federal Sex Discrimination Commissioner Pru Goward, and based on focus group research. Against the backdrop of 'traditional' work arrangements, the needs of the workforce – generally, as well as in the legal sector – and are being met by the emergence of flexible work

[2] 'Better managers needed in war for talent': http://www.careerone.com.au/jobs/job-search/job-market-insider/pid/544.
[3] IBISWorld Industry report: *Legal Services in Australia*. December 2005.
[4] *Putting the stress on dealing with depression*, LIJ, March 2006, p.26 (Volume 80, No. 3)

arrangements. But this is a topic that has been under discussion for years – inside and outside the legal profession. The response of the profession, and the obstacles working against 'balance', and the systemic obstacles for the advancement of women in the profession are well documented – the Law Council of Australia has a long bibliography developed by its Equalising Opportunities in the Law Committee[5]. This bibliography includes studies, inquiries papers and articles quantifying the problems - women in the law (discrimination and advancement of), family responsibilities and work flexibility, many of which include recommendations and outlines of ways to address the cultural and systemic issues in the legal profession.

There are two significant work / life balance reports in the pipeline at a federal level – due for release mid-2006. One is the report into submissions called for in response to the HREOC discussion paper *Striking the Balance: Women, Men, Work and Family*, and the other is the report from the *Inquiry into Balancing Work and Family*, conducted by the Federal House of Representatives Standing Committee on Family and Human Services. The former received a submission from the –Victorian Women Lawyers[6] and the latter from the Women Lawyers Association of NSW[7].

The research outlined in this report was conducted in the latter half of 2005, and found that Victorian firms are more than ever providing options to allow employee lawyers to work flexibly – largely a practice driven by the family responsibilities of employees. Firms are more likely than ever before to have people working in a variety of arrangements – and most of those people are women with children.

But fewer people in those positions are being promoted. While firms participating in this research (most of the top 60) have held ground in promoting people in part-time positions, there has been a distinct drop in promotion for those in other non-traditional arrangements – resulting in an overall decline of elevation for people in non-traditional arrangements (that is, arrangements other than standard full time work).

Since the main driver of establishing a non-traditional work pattern remains family responsibilities, sadly the overall effect is that having a family is not good for your career.

There appear to be systemic issues to be addressed in firms – the first being the need for basic policy and guideline 'planks' to be in place and for greater transparency about how firms manage workplace arrangements and conditions. Employees are at a disadvantage if they do not know the boundaries and expectations of developing their careers and their work arrangements. And firms genuinely wanting employees to take advantage of flexible work arrangements and their entitlements, because they recognise the staff retention and satisfaction rewards to the firm, put themselves at a disadvantage: they already have the ability to better meet the needs of their staff, but do not communicate effectively with them about those mechanisms.

Probably because the profession developed from a non-union or award tradition, and because enterprises are co-owned by a number of partners, much of the activity in firms, including how they make decisions about entitlements and work arrangements for staff, is discretionary – and decided on a case by case basis. This environment is not conducive to transparency, and there

[5] http://www.lawcouncil.asn.au/EOLbiblography.pdf
[6] Submission available from VWL website:
http://www.vwl.asn.au/Publications/VWLPublications/tabid/75/Default.aspx
[7] Submission available from Standing Committee web pages:
http://www.aph.gov.au/house/committee/fhs/workandfamily/subs/sub099.pdf

appears to be a reluctance to implement transparency by way of written policies and clear communication. This lack of transparency does not help the work environment – where resentment of perceived favouritism can poison work relationships – and loyalty to the employing firm.

Much of the onus rests on the partners in firms to make non-traditional work arrangements acceptable and workable. Employees in this research put the attitude of partners well ahead of any other determining factor in making alternatives work – probably in part because of the lack of policy frameworks.

But they, the employees, did not shirk their own individual responsibility. About one fifth of respondents in non-traditional arrangements said it was their own determination that was the key to making the arrangement work – for them and for the firm. They are probably applying the same determination that has propelled their career in the first place. Parenting, especially of babies and young children, is exhausting work. The workload in firms can be similarly exhausting – the data from this research clearly shows a high degree of commitment beyond 'business' hours from all lawyers, full-time or not, men and women. The task for firms in their aim to retain a talented workforce – one they have already invested significantly in – is to minimise the burnout that can result from the balancing of the two workloads. Is this combination a significant reason for the steep decline in the numbers of women staying in the law after age 40?

Interestingly, even where policies do exist to balance the needs and entitlements of staff and to ensure a fair and equal workplace, they are not systematically communicated to all – even staff with legal qualifications appear to have large gaps in knowledge about their statutory entitlements. It is a mix of elements that creates an excellent environment for dissatisfaction, misunderstanding and disappointment on the part of both employer and employee.

## What needs to be done?

The first stage of any cultural or behavioural change is to ensure that the boundaries and expectations are clear and the basic planks are in place. Those planks are policies and guidelines that clearly state an employer's position, as well as employee entitlements and how to go about getting or negotiating them.

Those documents should not only exist, but they should be well known and widely communicated. These tools are the mechanisms by which employers state what they believe their responsibilities to employees are, and how they intend to meet those commitments. It then becomes a matter for employees to take up the possibilities on the table – presumably in an environment where they will not be thought less of if they do.

Employers, including employers of lawyers, need to understand and accept the benefits of flexible work arrangements before they will encourage and endorse them in their own firms. The barriers to this are well documented: they are attitudinal; they are based on perception and not evidence, because the evidence shows that many of the concerns are ill-founded.

Probably the most powerful work that can be done with law firm employers is to show them the figures on the impact of having truly family-friendly work practices and entrenched flexible work arrangements open to all: the dollars saved in retention and loyalty of staff (increased productivity, lower recruitment and investment costs); attraction of the best quality candidates in the market; and the bottom line impact of superior reputation in the employer of choice stakes –

not just with the profession, but with their clients as well. Clients (including government and commercial enterprises) increasingly demand that their suppliers (including legal services) not only meet service delivery obligations, but can also prove their responsibilities as good corporate citizens and employers.

The challenge is beyond awareness raising or 'educating' – employers in the legal sector are already reasonably aware of the issues and messages about flexible work practices. They have the knowledge, skills and even resources to make changes. The challenge is in changing what actually happens – what people actually do – to develop optimism (make benefits clear) in making change and facilitating the change.

The challenge is to create new habits and expectations in the legal sector.

## Making changes

Most of the tools to effect change are readily available. Kits and guides on how to draft, develop and implement policies and guidelines on flexible work arrangements, and on how to embed cultural change within organisations and social settings, are well documented. The LIV is in an excellent position to influence and coordinate change in this area – as a central body for the legal profession in Victoria it already enjoys productive relationships with a multitude of stakeholders.

The first task is to sift through the available resources to find the ones that can work in the legal profession – or that can or should be adapted. With the tools in place to enable firms and individuals to shape their environment, the imperative to create attitudinal change – a willingness to accept the possibilities – becomes the next challenge.

After development of this awareness of what needs to happen and how it can happen, and a willingness to accept that it should, comes actual behavioural change. Once behavioural change begins to occur, the social marketing emphasis shifts from generating the impetus to encouraging and maintaining the gains. These are the tenets of social marketing campaigns, which include a range of 'push and pull' characteristics, including:

- systemic adjustments (regulation/rules/legislation if necessary);
- tackling practical barriers that exist – for example, availability of childcare, equipment etc;
- carrots and sticks for organisations commensurate with the nature of the campaign;
- communications campaigns that create an environment in which key attitudes are promoted as preferred or aspirational – targeting organisations and individuals separately;
- commandeering opinion leaders and building key stakeholder relationships– champions of the 'cause' who can model the preferred behaviour;
- peer education programs encouraging those who have adopted the preferred behaviour to educate others (by advising/mentoring/supporting through networks etc);
- provision of a comprehensive suite of tools for use by individuals and organisations to effect change;
- monitoring of key data (for example, pay parity, numbers of people being promoted) that act as indicators of the changes over time, and adjustment to methods in place to compensate where required and adjust to new needs or developments;
- regular reporting of measurements and progress (i.e. 'what gets measured gets managed'[8]).

[8] EOWA Fact Sheet: 2004 *Women in Leadership Census*.

# Research method

The 2005 research project focused on the top 60 employing firms in Victoria (as identified in LIV data). These firms were invited to take part in this survey late in 2005, with the survey remaining open until the end of November 2005.

57 of the 60[9] agreed to participate (a response rate of 95%). The aim was to provide a comparative study against the benchmarking survey conducted by Victorian Women Lawyers in 2001 – the report of that study was *A snapshot of employment practices 2001: A survey of Victorian law firms*. That survey tool was the basis of this survey, with some additional information and modifications to the original.

There are three significant differences between the studies:

1. The firms invited to take part in the survey were restricted in this survey to the top 60 employing firms in Victoria, excluding corporate/in-house legal teams (including in-house government lawyers). The aim of the 2005 study was to restrict participants to firms that operated as a private practice. The only exception was Victoria Legal, which was included because of its role in providing legal services to the public and its large legal workforce. The 2001 study was based on responses from 41 employers, five of which were private, government or non-profit enterprises – that is, the legal teams in them were employed to service the needs or role of the organisation and not to provide fee-for-service activities at large. The drivers of the business of legal services are distinctly different between the two groups, and for this reason they were excluded from the 2005 study, which sought to concentrate on employment practices that applied to lawyers with practising certificates in private practice.

2. The survey tool in 2005 was altered to provide participating firms with confidentiality – that is, their specific responses were not listed against each firm. This was done to boost the likelihood of honest and enthusiastic participation in the survey, and hence to provide a more definitive aggregate benchmark of the prevalent work practices in law firms. The aim is to repeat the survey with the same sample group at regular intervals, to measure any changes over time.

3. The survey tools requested more detail, and a mirror survey was conducted with employee lawyers in Victoria – essentially to 'test' superficialities in the base questions. That is, an effort has been made in particular to drill down into the initial responses to find out not just whether something is 'possible' (for example, by virtue of a policy being in place) but to find out the extent that it was a reality in firms – practically and/or culturally.

The employee snapshot in this report was based on 335 respondents drawn from the employee ranks of the LIV and VWL membership. Employees participated in the survey in response to invitations issued via *Friday Facts* (the LIV's weekly e-bulletin) and VWL email promotion. The

[9] It should be noted that there is an error of one entry – probably due to a double up from a firm (completing the survey twice). This affects the opening questions in terms of overall raw numbers, but does not affect the overall spread of data. It should also be noted that some firms did not answer all questions, or did not answer questions completely. Where non-answers potentially affect the skew of the data, this has been included in the graphs and tables.

survey was open for three months, although direct promotion was limited to the first month. The survey was closed and raw data extracted on 8 November 2005.

Comparison between the 2001 and 2005 data posed some difficulties because the sample sets of employers were not the same – although there were key commonalities. In 2001, responses were invited from a wide range of legal employers, including in-house and small/sole practices. There were also fewer responses in total than there were in the 2005 data, which focused attention only on the top 60 employing firms (including Victoria Legal Aid) and excluded corporate in-house departments. The reason for this was that in-house legal teams tend to work in organisations which bring their own industry standards (whatever that might be). For example, government lawyers are afforded the benefits of the public service workplace arrangements, which include comparatively generous paid maternity leave and so on.

Where possible, comparison tables between 2001 and 2005 have been provided and, where relevant, the 2001 data has been modified to exclude those that did not meet the respondent criteria set for 2005. This was not always possible, but the percentages provided give an overview of the results and are still useful to provide some guide as to where things have changed and by how much.

**Target distribution**

Employer survey:

- HR managers in Victorian firms
- staff partners/office managers in firms where there is no HR manager.

Employee survey:

- VWL members
- sample of employee LIV members, ensuring sample includes a number from each of the employer firms invited to participate.

**Promotion/communication plan**

1. Promotion of pending survey research through *Friday Facts* and *LIJ*
2. Email/letter invitation to participate (with link or paper copy of survey and reply paid envelope)
3. Follow up letter/email while survey open to encourage participation/remind of closing date
4. Final reminder email.

# Four years on – what's changed?

While it's important to recognise that the sample groups that provided data in each of the survey projects are different, it is interesting to see at a glance what appears to have changed and seems the same over that time.

Bearing in mind that the 2005 and 2001 employer respondent profiles are different (2005 provides a specific targeting of the top 60 employing firms, while 2001 was a much more diverse group – including in-house– across a smaller number of respondents), the following provides a quick snapshot of differences in how employers responded then and how they responded this time around.

- There has been a slight increase in numbers working a 9–10 hour day, and also to those working a shorter day; fewer employing firms in 2005 than in 2001believe lawyers in their own firms are working longer than 10-hour days.
- There is an increased propensity for lawyers to work during lunch breaks.
- More non-traditional arrangements are in place and on offer with the surveyed firms generally than in 2001.
- However, there is a decline in what's on offer for those returning from parental leave – levels of part time are similar, but there is a distinct drop in job share and work from home options.
- Fewer promotions are given to those in non-traditional arrangements overall: part-time elevation rates have basically stayed the same, but there have been decreases in elevations of people in job share and work from home arrangements.
- There has been a slight decrease in formal policies/guidelines in place in firms across a range of areas.
- An increased number of firms permit flexible start/finish times – 86% of the sample in 2001, up to 93% in 2005. However, this raises questions about how this works in practice, given the responses from employees and the anecdotal evidence of long hours.
- Family responsibilities are the main driver of flexible work arrangements, according to employing firms – a perception that remains unchanged from 2001.
- There appears to be a significant decline in the requirement of minimum hours for those in non-traditional arrangements: 2001 data indicated about 40% of employers set minimum hours; this figure had dropped to 16% in 2005; with the highest of the subset being for part-timers – 26% of these have minimum hours in place.
- Firms are setting salaries and budgets for those in non-traditional arrangements in basically the same ways – i.e. pro rata.
- Leave provisions:
    - Sick leave shows less variation than in the 2001 report: more have 8 days (up from 50% to 81%) fewer have 10 days (down from 20% in 2001 to 10% in 2005).
    - Annual leave – 20 days remains standard, with a slight increase in mentions in 2005 of Senior Associates getting an additional five days.
    - Adoption leave is unchanged (in line with the firm's paternity and maternity leave provisions – see below).
    - Carers' leave appears to be more readily available, but within sick leave entitlements.
    - Compassionate leave: provision of 2–3 days remains unchanged.

- Study leave provisions are unchanged
- Maternity leave: data on availability is unclear – could be as few as a third or as many as 47% of firms (2001 indicated 43%). The median days of paid leave appear to have remained the same at 40, but the likelihood of more than 40 days has decreased since 2001 (when there was a small propensity for paid leave to be up to 60 days). Further research on this topic would be required to determine the levels and prevalence of paid maternity leave in law firms.[10].
- Paternity leave: – the situation is unclear, but the data implies a slight decrease in the number of firms providing paid paternity leave. (in comparison, 32% of organisations reporting to EOWA in 2005 provide their staff with paid paternity leave, an increase from 15% in 2001.)
- Flexibility in how leave provisions are taken seems to have increased over this time, with more firms now categorising this flexibility as an entitlement and not just discretionary.

[10] At 47%, the legal sector in Victoria appears to be providing paid maternity leave at a rate consistent with other sectors – the *Equal Opportunity for Women in the Workplace Survey 2005 – Paid Parental Leave* report, released in February 2006, found that 46% of organisations are now providing paid maternity leave, up from 41% in 2004 and 36% in 2003

# Comparison of employee and employer perceptions in 2005

Reading through each of the chapters in this report and analysing responses from employers and employees reveals a range of disconnects as well as parity of views and perceptions as to the issues raised in this research.

However, it is important to note some specific points to maintain perspective on the data. The first is that the sample of employees was not neatly proportionate to the employer profile – there were a greater proportion of employee respondents from either end of the firm size spectrum (see table at right).

| Size of firm by number of partners | Firms | Employees |
|---|---|---|
| **1–3** | 5% | 32% |
| **4–10** | 43% | 14% |
| **11–20** | 24% | 8% |
| **21+** | 28% | 45% |

On the issue of basic work conditions, and specifically of hours worked, there was a slight difference in views about the likelihood of longer days. Some employees believed they worked longer days than the firms estimated that their employee lawyers worked.

| Daily hours | Firms | Employees |
|---|---|---|
| **8 or less** | 25% | 20% |
| **9–10** | 74% | 64% |
| **11–12** | 2% | 15% |
| **13+** | 0% | 1% |

Another key point of different was that employees were much more likely to say that full-time lawyers regularly worked during lunchbreaks (employers said they sometimes did); they were also more likely to say that lawyers regularly or often did work outside of normal business hours (employers rarely said anything other than sometimes). It is not possible to know whether employees would want their employers to know the actual number of hours put in to achieve results – this was particularly an issue for respondents who were in non-traditional arrangements who exhibited a desire to mitigate any perception that they were not 'pulling their weight' in the practice.

When it came to flexible start/finish times, almost all firms reported that this option was available. However, the perception of employees was again quite different – probably as a result of the discretionary application of this arrangement – a lack of transparency inevitably leads to different understandings (or complete lack of understanding) about the reality of what is possible in the workplace.

| Flexible start/finish times | Firms | Employees |
|---|---|---|
| **YES – at firm's discretion** | 53% | 40% |
| **YES – as a matter of course /regularly** | 26% | 18% |
| **YES – set policy** | 7% | 4% |
| **YES – but no staff use** | 3% | 2% |
| **YES - other** | 3% | 10% |
| **NO – no demand** | 7% | 1% |
| **NO – firm has never discussed option** | 0 | 10% |
| **NO – firm does not want** | 0 | 3% |
| **NO - other** | 0 | 3% |
| **Don't know** | 0 | 8% |

This 'discretionary' aspect of the management of workplace policies and their importance raised some interesting points. Employee lawyers consistently exhibited less knowledge of policies than their own firm stated as being in place. The widest discrepancy was in the area of policies on flexible start/finish times. It should be noted that around 20% of employees were not aware of any policies in their firms at all – although all firms were endeavouring to communicate them in some form. This is probably a direct result of the way policies are communicated to staff – most firms simply make them available (and most employees report this is true) and only a small number proactively hand out copies direct to individuals or provide specific training.

Another difference was in the perception of whether there was a requirement for minimum hours for those in alternative arrangements – firms indicated this was decided on a case-by-case basis, but employees said that most had minimum requirements. So while there may have been a decline in the requirement as formal policy over time (against the 2001 data), the practice has remained largely unchanged.

Both groups agreed on the issue of billable hours, in terms of the proportion of the day that needed to be billed. However, more employees thought partners billed a higher number of hours than the usual 5–7 (and fewer thought they would bill five or less) than was reported by employers.

Nearly all firms said those in non-traditional arrangements were paid pro rata (94.2%), with a small percentage saying they paid above pro rata (5.8%). Employee responses largely corroborated this, with 83.9% in non-traditional arrangements saying they were paid on a pro rata basis. But employees indicated a wider variety of compensation arrangements – and two respondents said they were paid less than pro rata.

According to 98% of the firms, budgets set for this group were pro rata – but only 60.9% of employees in non-traditional arrangements said this was so. Again, the gap showed a variety of arrangements, with the next largest group indicating it was not applicable to them as they were no longer in a role that had a budget target (25.5%). This result should be read in context: law firms are environments where career advancement rests largely on meeting budget targets. What does it do to a career to take time out from a fee-earner role?

When it came to attitudes about whether non-traditional arrangements meant making a ‘career limiting move’, those working in non-traditional arrangements were divided – although even those who did not see it as one believed that on balance career sacrifices were worth it. Those in full-time employment felt partners in firms did not think positively of non-traditional arrangements – and the full-time respondents themselves were ambivalent about them. The evidence from employers who responded gives good grounds for doubts. The elevating of staff in non-traditional arrangements is low, and appears to have declined significantly over time.

Both groups agreed that the main motivation for non-traditional arrangements was family responsibility. It goes to the heart of the matter to see data that shows that people need to adjust their work arrangements to sustain a family, but that the possibility of career progression for people in those arrangements is low. Having a family may well be a ‘career limiting move’, in practice if not in theory.

# Employer snapshot

The following firms participated in this survey:

Abbott Stillman & Wilson
Aitken Walker & Strachan
Allens Arthur Robinson (including Arthur Robinson & Hedderwicks)
Arnold Bloch Leibler
Baker & McKenzie
BJT Legal
Blake Dawson Waldron
Clayton Utz
Coadys
Cornwall Stodart
Corrs Chambers Westgarth
Davies Collison Cave
Deacons
Ebsworth & Ebsworth
Freehills
Gadens Lawyers
Galbally & O'Bryan
Garland Hawthorn Brahe
Hall & Wilcox
Harwood Andrews
Herbert Geer & Rundle
Holding Redlich
Home Wilkinson Lowry
Hunt & Hunt
Jerrard & Stuk
Kenyons
Kliger Partners
Lander & Rogers
Logie-Smith Lanyon
M M & R
Macpherson & Kelley
Maddocks
Mahonys
Marshalls & Dent
Mason Sier Turnbull
Maurice Blackburn Cashman
McKean & Park
Middletons
Mills Oakley
Minter Ellison
Monahan & Rowell
Moores Legal
Nevett Ford
Norton Gledhill
Pearce Webster Dugdales
Phillips Fox
Piper Alderman
Rigby Cooke
Russell Kennedy
Ryan Carlisle Thomas
Slater & Gordon
Sparke Helmore
TressCox
Victoria Legal Aid
White Cleland
Williams Winter
Wisewoulds

The following firms declined to participate:

Coulter Rouche
Madgwicks
Mallesons Stephen Jaques

*(Firms listed alphabetically)*

## Overview of firms participating (respondent profile)

All participating firms responded with respect to their Victorian offices only (if they had offices elsewhere) and all data pertains to their operations in Victoria only. The majority of participating firms in the research were of a size that had between 4 and 10 partners (43.1%), followed by very large firms (21 partners or more – 27.6%), 11–20 partner firms (24.1%) and a small portion of 1–3 partner firms (5.2%) at the tail-end of the 'top 60' list (Figure 1).

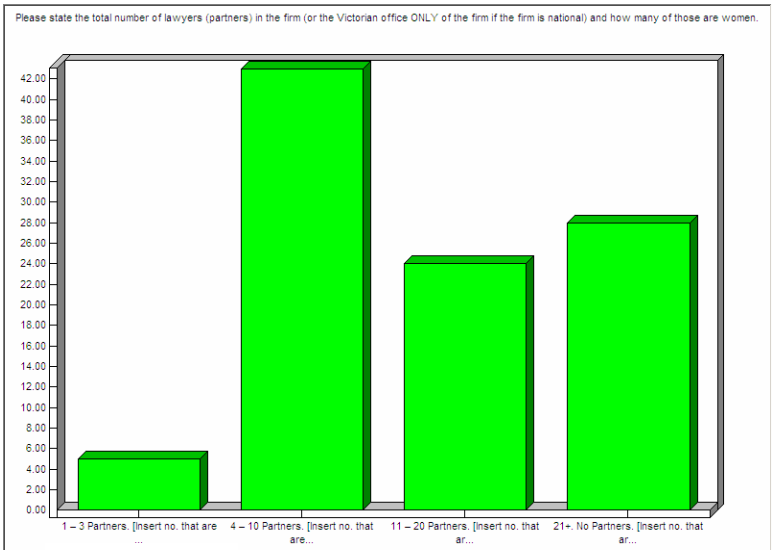


Figure 1.

None of the three smallest firms that participated had women partners, and calculations on the percentage in each category clearly showed that the larger the firm, the greater the likelihood of the firm having women in the partnership at all – although this appears to be more a product of increased possibilities with larger numbers, and did not indicate an increase in the proportion of women at the senior levels of firms.

For example, of the 39 firms with between four and 20 partners, only two firms had three women partners. This was the maximum number in any of those firms, and was reported only in the larger 11–20 partner firms. For the largest firm category (21 or more partners in Victoria), the highest number of women partners reported was 11 (out of a total of 43 partners). The data confirms what is already anecdotally understood – that women at partnership level in Victorian firms are a minority and the upper threshold for the proportion of women at partnership level is about a quarter of total partnership.

| **Number of partners** | Count | % of total sample of 60 firms | % of firms in category with women partners | *Number of firms in category in 2001 survey* | *% of firms in category in 2001 survey* |
|---|---|---|---|---|---|
| **1–3** | 3 | 5.2% | 0% | *7* | *19%* |
| **4–10** | 25 | 43.1% | 52% | *10* | *28%* |
| **11–20** | 14 | 24.1% | 78.5% | *7* | *19%* |
| **21+** | 16 | 27.6% | 81.3% | *12* | *33%* |

| **Number of partners** | **Number of women partners (for those firms with women in partnership)** | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** | **11** |
| **4–10** | 5 | 8 | | | | | | | | | |
| **11–20** | 3 | 4 | 2 | | 1 | 1 | | | | | |
| **21+** | | 1 | | 2 | 1 | 2 | 3 | 1 | 3 | | 1 |

The relevance of this data is particularly highlighted when compared with the gender breakdown of the legal workforce in the firms in the sample. About 40% of all firms in the sample have more than 50% women lawyers in their workforce. Nearly 90% of the total sample have workforces that comprise *at least* 30% women (see table below for raw data).

| **Total number of employee lawyers in firm** | % of sample 2005 | *% of sample 2001* | **Total number of employee lawyers in firm** | **% of employee lawyers that are women** | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | **Less than 10%** | **10% – 30%** | **30% – 50%** | **50% – 70%** | **70% – 90%** | **More than 90%** |
| **1–10** | 7% | *17%* | **1–10** | | | 2 | 1 | | 1 |
| **11–20** | 34% | *14%* | **11–20** | 1 | 7 | 10 | | 2 | |
| **21–50** | 24% | *25%* | **21–50** | | | 6 | 8 | | |
| **51–100** | 22% | *22%* | **51–100** | | | 8 | 4 | 1 | |
| **100+** | 14% | *22%* | **100+** | | | 1 | 6 | 1 | |

## Basic work conditions

Most lawyers working full-time worked a 9–10 hour day (74%), with the next most likely amount of hours worked being 8 hours or less (Figure 2).

| **Hours** | Percentage 2005 | *Percentage 2001* |
|---|---|---|
| **8 or less** | 24.6% | *25%* |
| **9–10** | 73.7% | *70% +* |
| **11–12** | 1.8% | *2.5%* |
| **13+** | 0% | *0%* |

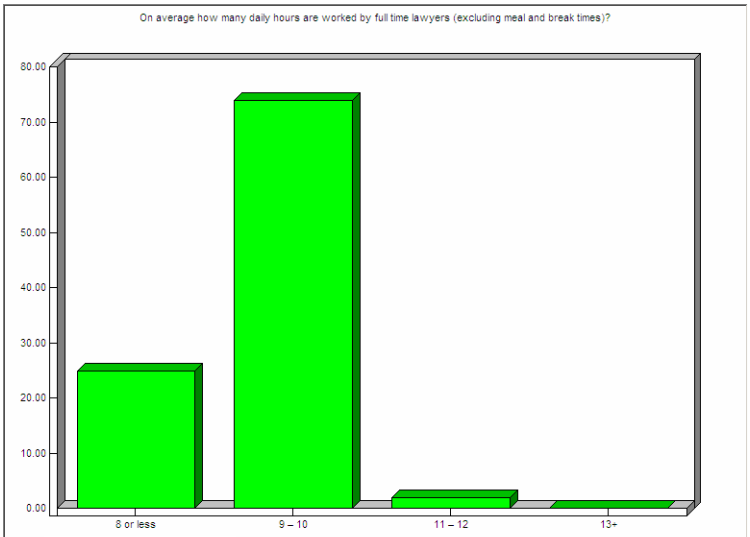


Figure 2.

Almost all firms (93%) permitted flexible start/finish times for the required hours. Most of those provided this flexibility at the firm's discretion (53.4%); 25.9% provided it regularly or as a matter of course, and 6.9% had set policy guidelines on the practice. Of the 7% that said they did not permit flexible start/finish times, all of them said it was because there had never been any demand for this kind of flexibility. It is interesting to note that of those who did permit this flexibility, two firms (3.4%) said that no staff had availed themselves of the option – but they did provide it nonetheless.

Generally speaking, on the issue of billable hours, most firms required lawyers to bill between 5 and 7 hours whatever their seniority in the firm. This does not appear to have changed significantly against the data provided in 2001. For solicitors and senior associates, there was a greater propensity for the number of billable hours to be skewed upwards to between 7 and 9 billable hours, while for partners, it was about equally possible for their billable hour requirement to be increased to 7–9 hours or decreased to 5 or less hours.

| **Rank** | *2001 average billable hours* | 5 or less | 5–7 | 7–9 | 9 or more | No answer |
|---|---|---|---|---|---|---|
| **Solicitors** | *6.3* | 2 (4%) | 48 (84%) | 7 (12%) | 0 | 1 |
| **Senior Associates** | *6.5* | 4 (7%) | 42 (78%) | 8 (15%) | 0 | 4 |
| **Partners** | *6.1* | 10 (18%) | 36 (65%) | 9 (16%) | 0 | 3 |

When it came to working outside paid hours, respondents indicated that the majority of lawyers did so – with the most prevalent activity being to sometimes take work home on weekends (95%). The habit of lawyers working outside prescribed work hours has changed little from what was indicated in 2001 – with one exception. There is an increased propensity for lawyers to work during lunchbreaks. In 2001 about half of the firms said their lawyers *sometimes* worked during lunchbreaks, compared to 79% of firms in 2005 – although in 2001 about a third of firms said their lawyers worked during lunch *regularly*, while in 2005 just over a fifth said their lawyers did so *regularly* or *often*.

| **To what extent do full time lawyers:** | Never | Sometimes | Regularly | Often | Not answered |
|---|---|---|---|---|---|
| Work during weekends | 1 (2%) | 55 (95%) | 2 (3%) | 0 | 0 |
| Take work home | 1 (2%) | 49 (86%) | 7 (12%) | 0 | 1 |
| Work through their lunchbreaks | 0 | 46 (79%) | 9 (16%) | 3 (5%) | 0 |

## Flexible work arrangements

Most firms had people working in a variety of flexible work arrangements: part-time, job share, or working from home. Respondents mentioned other alternative arrangements which included a nine day fortnight, increased annual leave and casual work. Job sharing was the least likely arrangement – 28% of firms said they had this arrangement in place and operational. This was, however, an increase on the 2001 data, which indicated 21% of firms with job share arrangements.

Where firms had the arrangements in place, they were still accessed by relatively small numbers of employees – usually between 1 and 5 lawyers in any single firm (Figure 3).

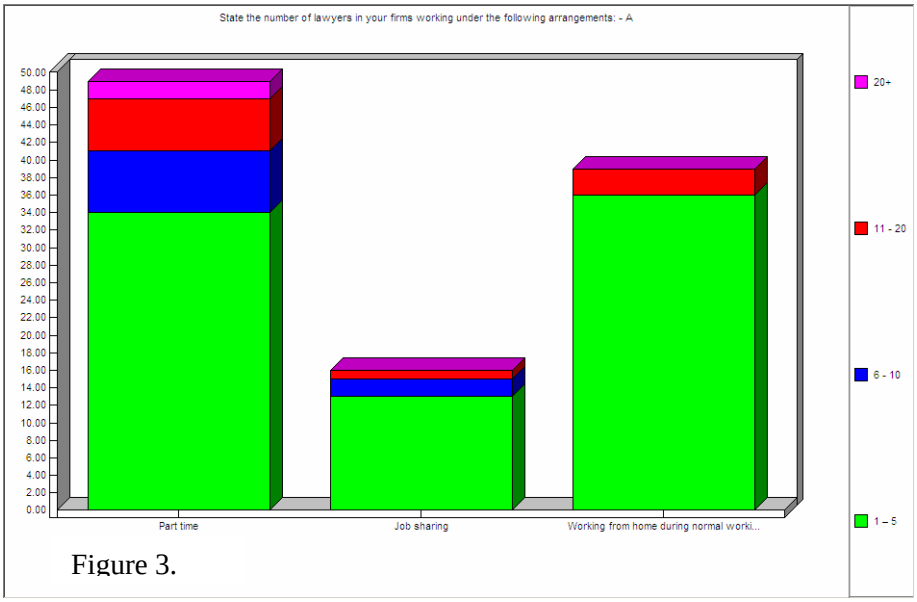



Figure 3.

| **Arrangement** | 1–5 lawyers | 6–10 lawyers | 11–20 lawyers | 20+ lawyers | NA | Firms indicating arrangement | | *2001* |
|---|---|---|---|---|---|---|---|---|
| Part time | 34 (59%) | 7 (12%) | 6 (10%) | 2 (3%) | 9 | 49 | 84% | *75%* |
| Job sharing | 13 (22%) | 2 (3%) | 1 (2%) | 0 | 42 | 16 | 28% | *21%* |
| Working from home during normal work hours | 36 (62%) | 0 | 3 (5%) | 0 | 19 | 39 | 67% | *50%* |

*Percentages indicated are of total sample of firms participating in survey.*

In terms of supports provided for those in work from home arrangements, firms indicated that they usually provided a range of supports – and this remained unchanged from the levels provided in the 2001 report. Most firms provided appropriate equipment (79%) and regular contact (72%), and also kept lawyers up to date with developments in the firm and in the law generally (69%) – presumably as they would for other employees. Slightly fewer ensured regular work meetings (64%).

For those working in alternative arrangements, most (38.2%) or all (23.6%) at the firms responding did so for family reasons; 14.5% of firms said that none of the people at their firm in those arrangements did it for family reasons. This data indicates that the driver for those entering into flexible work arrangements has remained the same in the past four years – family responsibilities were the motivator for *most* or *all* in the 2001 report.

| **Number of people in flexible arrangements in your firm who do so for family reasons:** | Count | Percentage |
|---|---|---|
| all of them | 13 | 23.6% |
| most | 21 | 38.2% |
| about half | 4 | 7.3% |
| less than half | 2 | 3.6% |
| a few | 7 | 12.7% |
| none | 8 | 14.5% |

For lawyers working in flexible arrangements, the application of minimum hours did not appear to be the general practice in firms. If minimum hours were applied, they tended to be for part-time arrangements more than for any other type of arrangement – but even for part-timers, it was fairly evenly spread as to whether a minimum would be set, and whether it was a requirement of the firm or simply at the firm's discretion (that is, on a case-by-case basis).

| **Arrangement** | Yes, minimum required | No minimum hours required | Firm discretion if minimum hours apply | Not applicable | Not Answered |
|---|---|---|---|---|---|
| Part time | 15 (26%) | 19 (33%) | 14 (24%) | 5 | 4 (7%) |
| Job sharing | 5 (9%) | 13 (22%) | 9 (16%) | 15 | 15 (26%) |
| Home | 8(14%) | 17 (29%) | 11 (19%) | 10 | 11 (19%) |
| Home/office | 8 (14%) | 14 (24%) | 11 (19%) | 11 | 13 (22%) |

In terms of how arrangements came about in firms, results were mixed (Figure 4). Many respondents selected the 'other' option – which generally provided for three alternative reasons to the one listed above – one of those alternatives confirmed the prevalence of the three options provided for in the question. Taking that into account, most often the flexible work arrangements came about as a result of a full-time employee wanting to change the terms of their employment. This option was closely

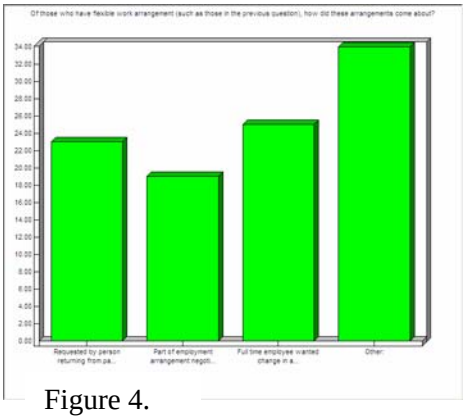


Figure 4.

followed by people returning from parental leave and wanting to change their work arrangements. Implied in the results for this question is that the impetus for change is coming from the lawyers in the workforce of firms – notwithstanding the firms' attitude towards alternative work arrangements.

| **How alternative arrangements came about in firms:** | Count | Percentage (excludes 5 firms that did not answer) |
|---|---|---|
| Requested by person returning from parental leave | 12 | 22.6% |
| Part of employment arrangement negotiated from outset of employment | 10 | 18.9% |
| Full-time employee wanted change in arrangements for their own reasons | 13 | 24.5% |
| Other:<br>• All of the above<br>• Less distractions<br>• Illness | 18 | 34.0% |

Most firms provided the option for employees returning from maternity/paternity/adoption leave to adopt flexible work practices – 90% offered part-time, 64% offered job share and 74% offered working from home. While that seems a positive result, it is in fact a backwards step against the data provided in the 2001 report – over the past four years there has been a slight increase in firms offering part-time arrangements to those returning from parental leave, but a decline in the offer of job share and working from home arrangements (see table below).

| **Arrangement** | 2005<br>Firms indicating YES | *2001*<br>*Firms indicating YES* |
|---|---|---|
| Part-time | 90% | *88%* |
| Job sharing | 64% | *84%* |
| Working from home | 74% | *84%* |

Almost without exception, employees on flexible work arrangements where they worked less than a full-time load were paid pro rata (94.2%), with a small percentage (5.8%, or 3 firms) indicating that they paid above pro rata (Figure 5). No firms indicated less than pro rata salary. This result is unchanged against the data provided by the 2001 report.

The same held for how budgets were set for employees in these arrangements (Figure 6) – as with the 2001 data, almost all were set according to pro rata arrangements (98%), with only one firm indicating a budget set above pro rata for the individual on flexible work arrangements. None indicated a budget less than pro rata.

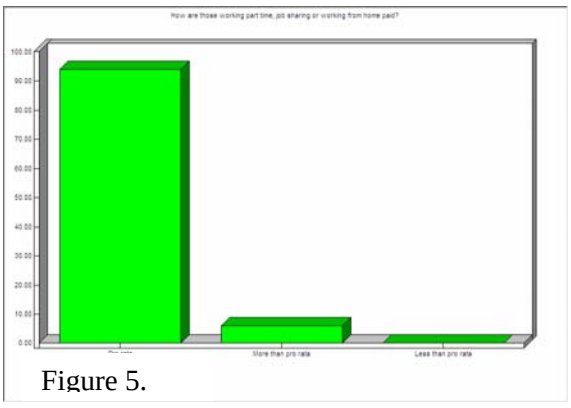


Figure 5.

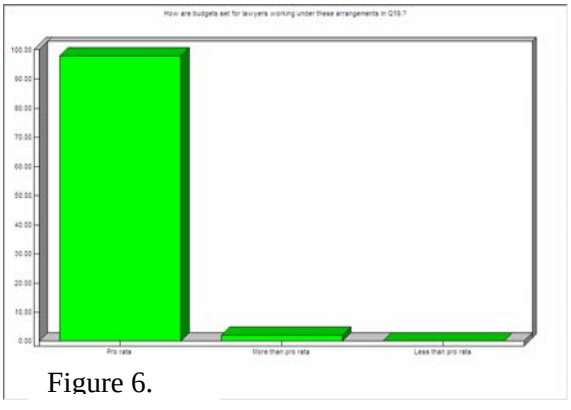


Figure 6.

**Career limiting moves?**

Respondents were asked if anyone in flexible work arrangements had been promoted in the last 12 months. For firms who had said they were employing people in non-traditional arrangements 19% had promoted people in those arrangements in the last 12 months, 30% had not (Figure 7). This indicates a significantly lower level of promotion than that reported in the 2001 report – which indicated that between a third and a quarter of employers had promoted people in similar arrangements. The differences were especially large for job sharing and working from home: compared with the 2001 report, promotion of people in part-time roles is about the same (just over a third of firms say they promoted people in this arrangement in the last 12 months), but there were big decreases for the other two categories. In 2001, the figures were about a quarter for job share and a third for working from home arrangements. The importance of this data is not just in the context of reflecting on comparable responses for full-time employees, but perhaps more because the prevalence of these kinds of working arrangements has been shown in this research to have increased significantly in the legal profession. See also the table outlining responses below.

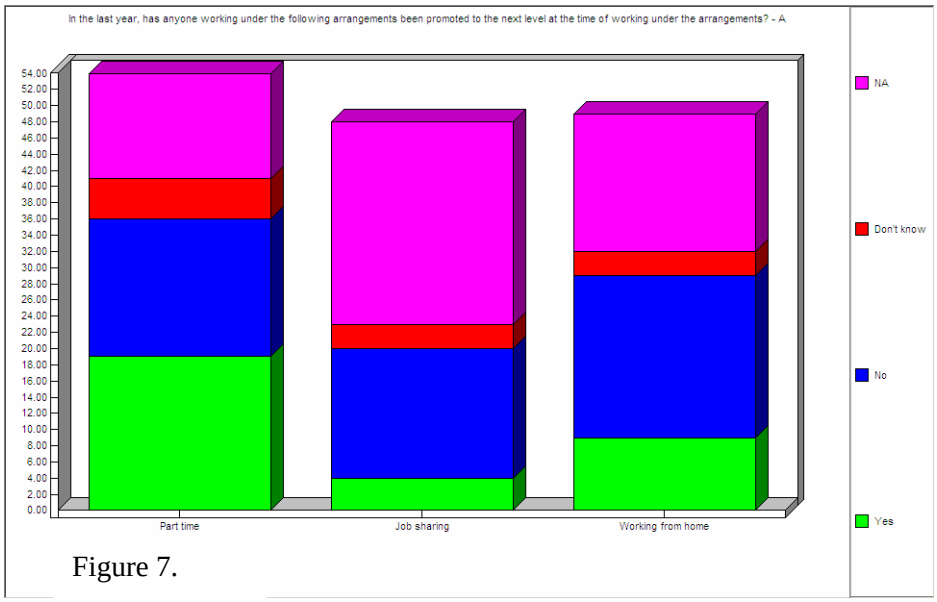



Figure 7.

| **Arrangement** | Yes (Average = 19%) | No (Average = 30%) | Don't know (Average = 6%) | NA (Average = 21%) | Not Answered (Average = 16%) |
|---|---|---|---|---|---|
| Part time | 19 (33%) | 17 (29%) | 5 (9%) | 13 (22%) | 4 (7%) |
| Job sharing | 4 (7%) | 16 (28%) | 3 (5%) | 25 (43%) | 10 (17%) |
| Working from home | 9 (16%) | 20 (34%) | 3 (5%) | 17 (29%) | 9 (16%) |

## Policies and guidelines

Most firms had written policies in place for equal opportunity, anti-discrimination and sexual harrassment, and slightly more than half had written policies or guidelines in place for part-time work arrangements for lawyers. However, the numbers of firms with written policies in place for other work arrangements was significantly less (Figure 8).

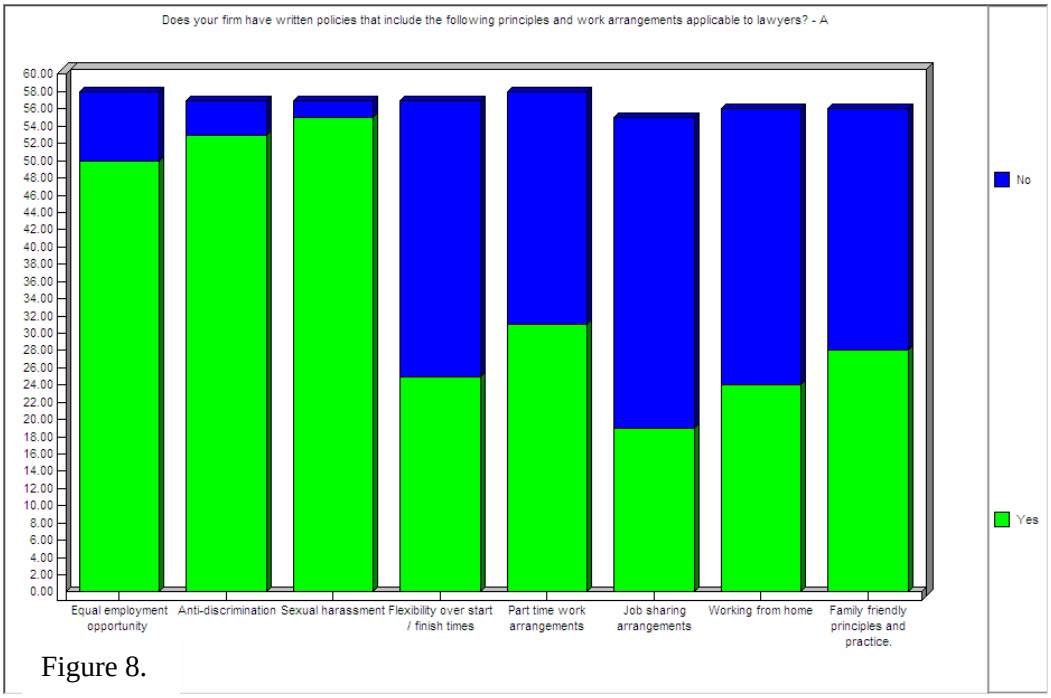



Figure 8.

Most areas showed an increase in firms having written policies. Some areas showed significant increases against the 2001 data (for example, anti-discrimination and sexual harassment policies), but others show a decrease or no change – most notably in the number of firms with family-friendly principles and practice enshrined in written documentation in the firm. An area of concern was the lack of movement against a low starting point for policies dealing with job share arrangements. While policies dealing with flexible start/finish times were not the norm, when read with the data showing the high degree of reported flexibility in start/finish times, the practice appears to have overtaken the need for a policy.

| **Policy type** | Yes<br>% of total sample | Yes<br>% of valid responses | *2001 'Yes'<br>% of valid responses* |
|---|---|---|---|
| **Equal employment opportunity** | 86% | 86% | *80%* |
| **Anti-discrimination** | 91% | 93% | *80%* |
| **Sexual harassment** | 95% | 96% | *83%* |
| **Flexibility over start / finish times** | 43% | *44% | *44%* |
| **Part time work arrangements** | 53% | 53% | *49%* |
| **Job sharing arrangements** | 33% | *35% | *34%* |
| **Working from home** | 41% | 43% | *36%* |
| **Family friendly principles and practice** | 48% | *50% | *55%* |

**Decrease or insignificant change against 2001 data.*

Whatever the policies in place, most firms did not systematically ensure staff were familiar with the contents of the firm's policies, preferring instead to simply make them available (for example by the intranet) – this was the most prevalent method with 54.4% of firms (Figure 9). A clue as to why firms did not emphasise the policies may be indicated in the response from one firm: *'Provided to staff on intranet. Adhere to equal opportunity and anti-discrimination laws and have no cause to write policies on these issues. Requests to work from home/job share decided on case by case basis as strict policy may not achieve best outcome.'*

As responses were not mutually exclusive, it is likely that there is some overlap in responses to each of the options – for example, the firms who provide training on the policies in induction (8 firms of 14%) or the single firm that regularly conducts training in the firm on the policies, probably also ensure the policies are available on the intranet. Nine firms (nearly 16%) give each staff member a copy of the firm's policies.

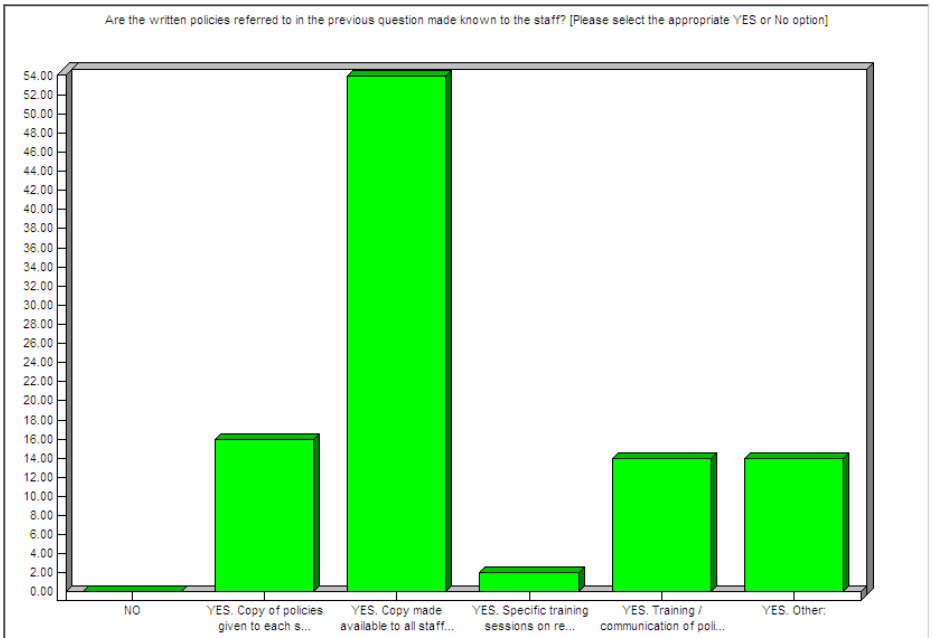



Figure 9.

## Leave entitlements

Respondents were asked to state the total number of leave days (disregarding all qualifying conditions) per annum available to lawyers for a range of types of leave. The tables below show the detail of numbers provided in each category, but a summary is as follows:

- 81% provide 8 sick leave days per year, with a further 10% providing 10 days and one firm providing a much more generous provision of 15 days.
- More than 90% of firms provide the standard 20 annual leave days, with two firms indicating an additional 5 days for senior associate level lawyers.
- Firms were most likely to provide 5 days paternity leave (28%) and responses implied this was paid leave. Paternity leave days varied significantly between firms. Most firms provide some form of paid paternity leave (33% fully paid, 10% partially paid).
- Adoption leave appeared to reflect parental leave provisions, but it can only be said with certainty that 34% of firms provided for 12 months adoption leave.
- 5 days was the most likely amount of carer's leave provided by a firm (40%).
- More than 50% of firms provided 2 or 3 days compassionate leave.

- Nearly 20% of firms provide an allocation of 2 days (generally per subject/per semester) for study for exam leave.
- Maternity leave responses were unclear and this portion of data is analysed in a separate section below.

The greatest consistency, not surprisingly, was in the categories of annual leave and sick leave provisions, followed by carer's leave and compassionate leave – these categories of leave had the least amount of variety between firms, although there were certainly differences.

| **Sick leave days** | Number | % of total sample |
|---|---|---|
| 5 | 1 | 1.7% |
| 5–8 | 1 | 1.7% |
| 8 | 47 | 81% |
| 10 | 6 | 10.3 % |
| 12 | 1 | 1.7% |
| 15 | 1 | 1.7% |
| No answer | 1 | 1.7% |

| **Annual leave days** | Number | % of total sample |
|---|---|---|
| 10 | 1 | 1.7% |
| 20 | 53 | 91.4% |
| 21 | 1 | 1.7% |
| 20 plus 5 for senior lawyers/associates | 2 | 3.4% |
| No answer | 1 | 1.7% |

| **Paternity leave days** | Number | % of sample |
|---|---|---|
| 365/1 year/12 months | 12 | 21% |
| 10 | 3 | 5% |
| 5 | 16<br>(2 of which specified as paid leave) | 28% |
| 2 | 2 | 3% |
| 0 | 3 | 5% |
| As per award/legislation | 4 | 7% |
| Single mentions:<br>• 14 [days/weeks?]<br>• 51 weeks<br>• 12 weeks<br>• 5–730<br>• Flexible<br>• Not applicable | 6 | 10% |
| No answer | 12 | 21% |

| **Adoption leave days** | Number | % of sample |
|---|---|---|
| 365/1 year/12 months | 20 | 34% |
| 2 | 2 | 3% |
| 0 | 3 | 5% |
| Indeterminate | 3 | 5% |
| Same as parental leave provisions | 2 | 3% |
| As per legislation/award | 4 | 7% |
| Single mentions:<br>• Flexible<br>• 8 weeks<br>• 40 paid/52 unpaid<br>• 30/5<br>• 30–70<br>• 365–730 | 6 | 10% |
| No answer | 18 | 31% |

| **Carer's leave days** | Number | % of sample |
|---|---|---|
| 10 | 5<br>(2 within sick leave entitlement, 1 in addition to sick leave entitlement) | 9% |
| 8 | 10 | 17% |
| 5 | 23 | 40% |
| 3 | 3 | 5% |
| 2 | 2 | 3% |
| Within sick leave (not specified) | 3 | 5% |
| Single mentions:<br>• Flexible<br>• Unlimited<br>• As per legislation | 4 | 7% |
| No answer | 8 | 14% |

| **Compassionate leave days** | Number | % of sample |
|---|---|---|
| 5 | 5 | 9% |
| 3 | 14 | 24% |
| 2 | 21 | 36% |
| Single mentions:<br>• As per legislation/awards<br>• 8<br>• 21<br>• 4 | 4 | 7% |
| Flexible/case by case | 6 | 10% |
| No answer | 8 | 14% |

**Note some specified per death, some respondents indicated no limit or maximum.*

| **Special leave days** | Number | % of sample |
|---|---|---|
| 10 | 1 | 2% |
| 5 | 2 | 3% |
| 3 | 2 | 3% |
| 2 | 4 | 7% |
| 0 | 10 | 17% |
| Flexible/case by case | 18 | 31% |
| Legislation | 1 | 2% |
| No answer | 20 | 34% |

| **Study/exam leave days** | Number | % of sample |
|---|---|---|
| 2 | 11<br>(most specified per subject per semester) | 19% |
| 4 | 5 | 9% |
| 5 | 4 | 7% |
| 6 | 4 | 7% |
| 8 | 3 | 5% |
| 10 | 4 | 7% |
| Flexible/case by case | 7 | 12% |
| Single mentions:<br>• 1<br>• 1.5<br>• 3<br>• 5–10<br>• 7<br>• Under review<br>• Up to 20 | 7 | 12% |
| No answer | 2 | 12% |

**One firm also mentioned additional 5 days of paid leave if attending intensive study programs.*

**Maternity leave**

There was confusion in how to respond to this question, as indicated by the type and variety of answers provided – for example, not all respondents indicated the statutory requirement of 12 months maternity leave.

One firm provided up to two years as a standard entitlement. A number of responses indicated a sliding scale of entitlements – particularly with regard to paid leave – for example *'up to 12 weeks max depending on length of service'*.

For those who indicated the standard 12 months, three said that the entitlement had a paid leave component – the most generous being 40 days paid leave in addition to 52 weeks unpaid leave. The other two provided one month and two months paid leave respectively, which was included within the 52 week entitlement.

Of the remaining responses, if it is assumed that all law firms apply the statutory requirement of 12 months maternity leave entitlement, it is possible – and indicated by a good proportion of the answers – that respondents assumed the question was only referring to *paid* maternity leave. Four respondents specified paid leave only in their answer (and did not mention unpaid leave) of between 30 and 42 days. Two of these said that eligibility for paid maternity leave was two years service.

| **Maternity leave days** | Number | % of total sample |
|---|---|---|
| 365/1 year/12 months | 36 (3 of which indicated some paid leave) | 62.1% |
| Single mentions:<br>• 42 paid<br>• 12 weeks paid<br>• 10–90<br>• 2 mths paid after 2 yrs, 3 mths paid after 5 yrs<br>• 6 weeks paid after 2 yrs<br>• 30<br>• 98<br>• 30–70<br>• 0 | 9 | 15.5% |
| 40 | 3 | 5.2% |
| Case by case negotiation | 4 | 6.9% |
| No answer | 6 | 10.3% |

Based on the data provided, this report can only provide an educated guess about a topic of great interest to women in the legal profession – paid maternity leave.

Based on the responses provided in this question, the estimate of the number of firms providing paid maternity leave at some level is about a quarter. However, the picture is probably rosier based on responses to a further survey question (see next paragraph). The most likely amount to be provided is 40 days paid leave (that is, eight weeks – this applied to between a third to a half of firms providing paid leave of this type). It was unusual for firms ot be outside the range of 30–50 days if they offered paid maternity leave (six to 10 weeks) – the outer limits being 10 days (2 weeks) and the upper limit being 98 days (19.6 weeks). Two firms indicated that eligibility for the entitlement was two years service (other respondents did not specify, making it difficult to know if this is common practice in the legal sector or if other respondents did not specify because they did not have specific qualifying periods).

However, an additional question in the survey provided perhaps the best guide to how prevalent paid maternity leave is in the legal profession – and the picture is positive: 28% of respondent firms said they provided fully paid maternity leave and a further 19% said they provided partially paid maternity leave. That is, overall 47% or nearly half of the top 60 firms responding had some form of paid maternity leave.

Even with moderation of the figure to take into account the responses to both questions related to paid maternity leave, it still indicates that around a third of firms provide some form of paid maternity leave.

**Other leave provisions**

Respondents were asked about how flexibly the leave provisions could be applied and whether the flexibility was at the firm's discretion, or as an entitlement (that is, more transparent in its application). The only clear provisions across the respondent firms was the ability to use sick leave to care for family members (which is a general application of carer's leave under sick leave provisions) – 83% said this was an entitlement while the rest provided it at the firm's discretion.

Easily the most popular flexible leave option provided at a firm's discretion was the possibility of extending annual leave by partial payment or salary sacrifice throughout the year. Other possibilities and the responses to them are outlined in the table below and Figure 10.

| **Leave type / scenario** | discretionary basis | entitlement | Not Answered |
|---|---|---|---|
| Sick leave to care for family members | 9 (16%) | 48 (83%) | 1 (2%) |
| Extend annual leave period by partial payment | 45 (78%) | 5 (9%) | 8 (14%) |
| Use annual leave to care for family members | 32 (55%) | 24 (41%) | 2 (3%) |
| More than 3 months long service leave | 35 (60%) | 16 (28%) | 7 (12%) |
| Early access to long service leave | 41 (71%) | 9 (16%) | 8 (14%) |
| Use long service leave to care for family members | 39 (67%) | 16 (28%) | 3 (5%) |
| Access to other leave for maternity leave purposes | 30 (52%) | 24 (41%) | 4 (7%) |
| Access to other leave for paternity leave purposes | 32 (55%) | 20 (34%) | 6 (10%) |
| Access to other leave for adoption leave purposes | 29 (50%) | 20 (34%) | 9 (16%) |
| Access to other leave for carer's leave purposes | 37 (64%) | 19 (33%) | 2 (3%) |
| Access to other leave for compassionate leave purposes | 38 (66%) | 16 (28%) | 4 (7%) |

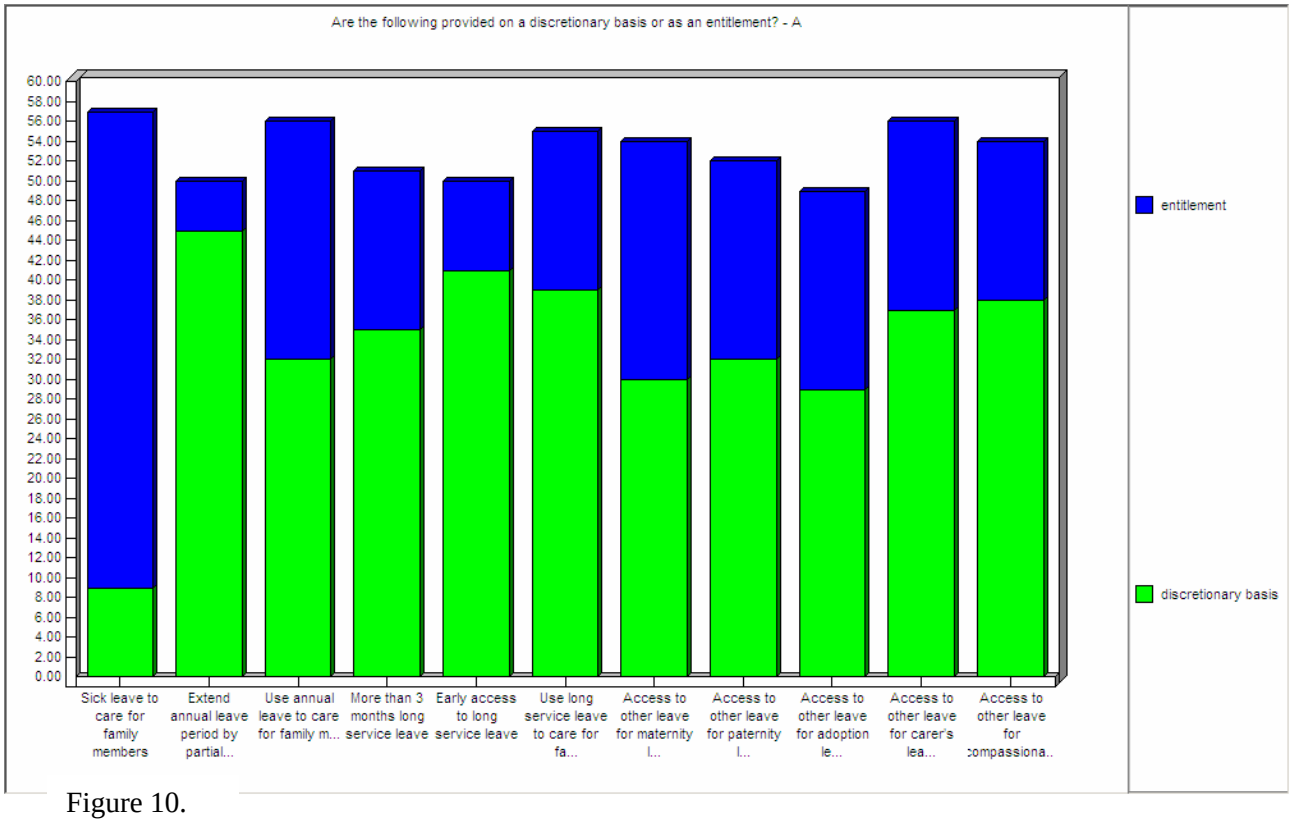



Figure 10.

In comparison to the 2001 data, the picture is more positive – although the 2001 report does note that the above options tend to be more likely to be available in larger firms. This research showed that most employing firms provide additional leave for a wide range of purposes – although most

of those provide it on a discretionary basis, significant numbers provide additional leave as an entitlement of employment with the firm.

| **Leave type / scenario** | **2005** | | ***2001*** | |
|---|---|---|---|---|
| | **discretionary basis** | **entitlement** | ***discretionary basis*** | ***entitlement*** |
| Sick leave to care for family members | 16% | 83% | *23%* | *75%* |
| Extend annual leave period by partial payment | 78% | 9% | *78%* | *0%* |
| Use annual leave to care for family members | 55% | 41% | *34%* | *65%* |
| More than 3 months long service leave | 60% | 28% | *34%* | *31%* |
| Early access to long service leave | 71% | 16% | *53%* | *23%* |
| Use long service leave to care for family members | 67% | 28% | *65%* | *29%* |
| Access to other leave for maternity leave purposes | 52% | 41% | *54%* | *43%* |
| Access to other leave for paternity leave purposes | 55% | 34% | *54%* | *43%* |
| Access to other leave for adoption leave purposes | 50% | 34% | *48%* | *48%* |
| Access to other leave for carer's leave purposes | 64% | 33% | *39%* | *57%* |
| Access to other leave for compassionate leave purposes | 66% | 28% | *40%* | *60%* |

Compassionate leave and carer's leave was available to be applied almost universally across a variety of family relationship types, including de facto partners (97%), siblings (91%), grandparents (91%) and same sex partners (90%). See Figure 11 (right).

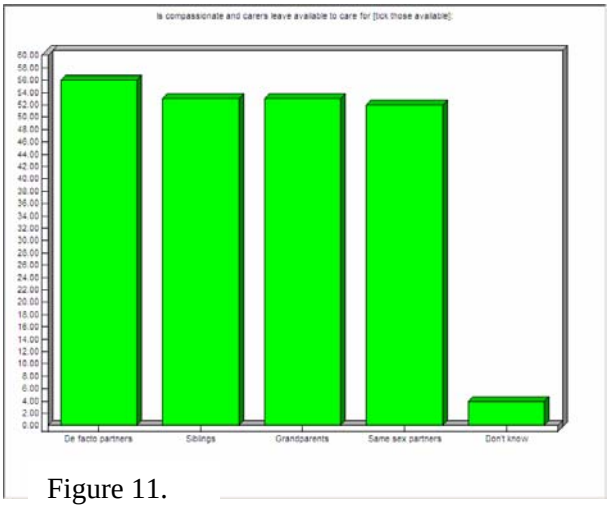


Figure 11.

### Which leave is paid for?

Sick leave and annual leave were fully paid in firms, with the next most likely types of leave to attract full payment entitlements including compassionate leave (91%), carer's leave (90% – probably at least partly because carer's leave is often part of sick leave entitlements) and study leave (84%). Less than half of all firms provided fully paid options for any other type of leave (see table below and Figure 12).

| **Leave type** | fully paid | partially paid | unpaid | Not Answered |
|---|---|---|---|---|
| **Sick leave** | 57 (98%) | 0 | 0 | 1 (2%) |
| **Annual leave** | 57 (98%) | 0 | 0 | 1 (2%) |
| **Maternity leave** | 16 (28%) | 11 (19%) | 27 (47%) | 4 (7%) |
| **Paternity leave** | 19(33%) | 6 (10%) | 26 (45% | 7 (12%) |
| **Adoption leave** | 16 (28%) | 9 (16%) | 24 (41%) | 9 (16%) |
| **Carer's leave** | 52 (90%) | 0 | 4 (7%) | 2 (3%) |
| **Compassionate leave** | 53 (91%) | 2 (3%) | 1 (2%) | 2 (3% |
| **Special leave** | 27 (47%) | 3 (5%) | 10 (17%) | 18 (31% |
| **Study/exam leave** | 49 (84%) | 3 (5%) | 0 | 6 (10%) |

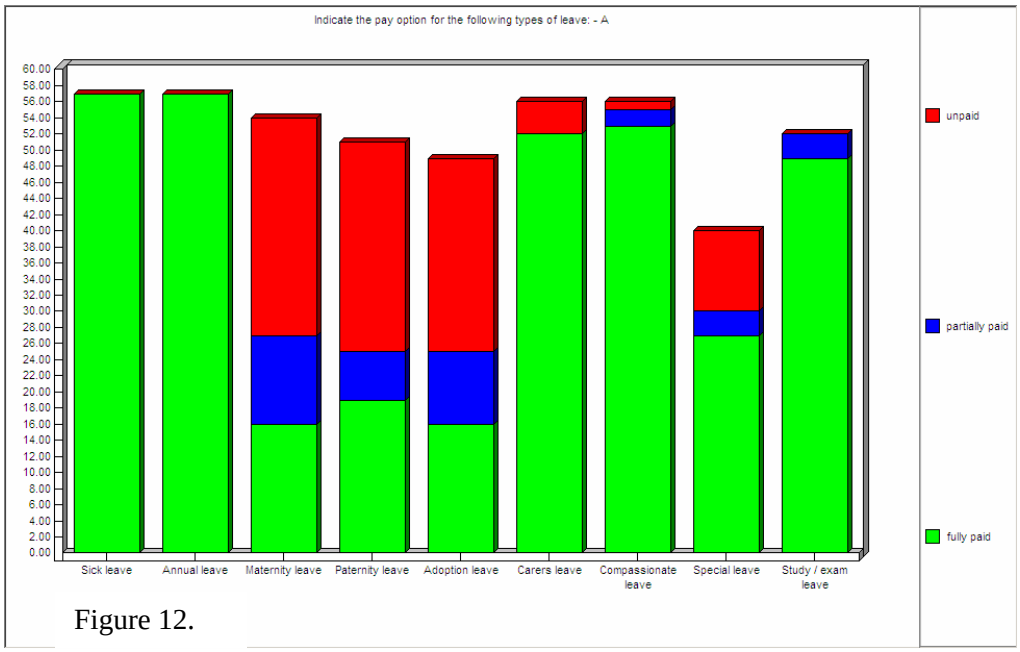



Figure 12.

Twenty firms described other forms of leave available to their lawyers. These included: long service leave, jury duty leave, army reserve leave, bereavement leave, religious/cultural leave days (2–4 days – this type of leave was mentioned in six responses) and blood donor leave.

A number of respondents (12) said that their firms provided additional leave (paid and unpaid) at the firm's discretion. Five firms offered additional paid leave days (between 1 and 5) as a matter of course – for example, one firm offered a day off every year in the name of the firm, another offered three 'domestic leave' days, another two firms offered an additional 2 and 5 days (respectively) for any purpose. Two firms also mentioned the arrangement of salary sacrifice to purchase additional leave each year.

# Employee snapshot

## Respondent profile

The vast majority of respondents were women (90%), which reflects the use of VWL's membership list to recruit participants (in combination with the LIV's general call to members who were also employees).
The majority of respondents (64%) were in full-time employment. Almost 80% of respondents were aged under 40, with 42.9% aged between 20 and 30; 36.3% between 31 and 40; 16.4% between 41 and 50 and 4.2% aged 51 years or more (see Figure 13.)

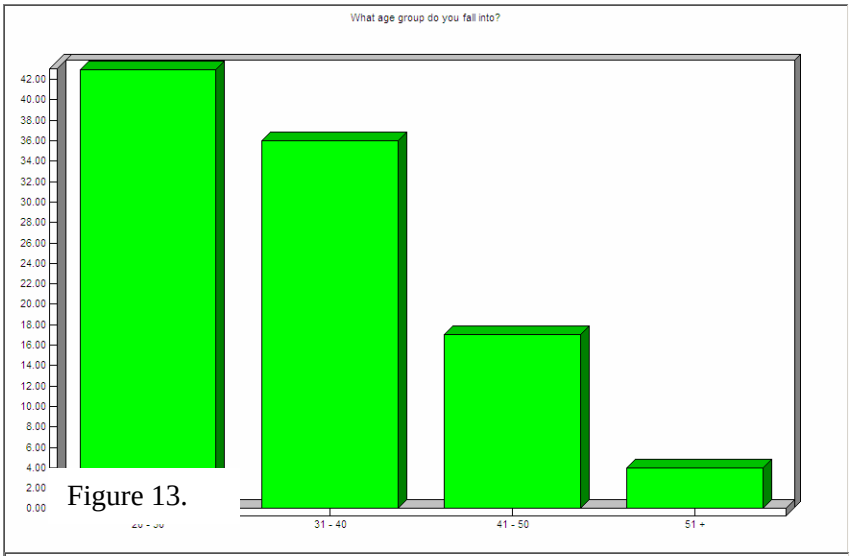



Figure 13.

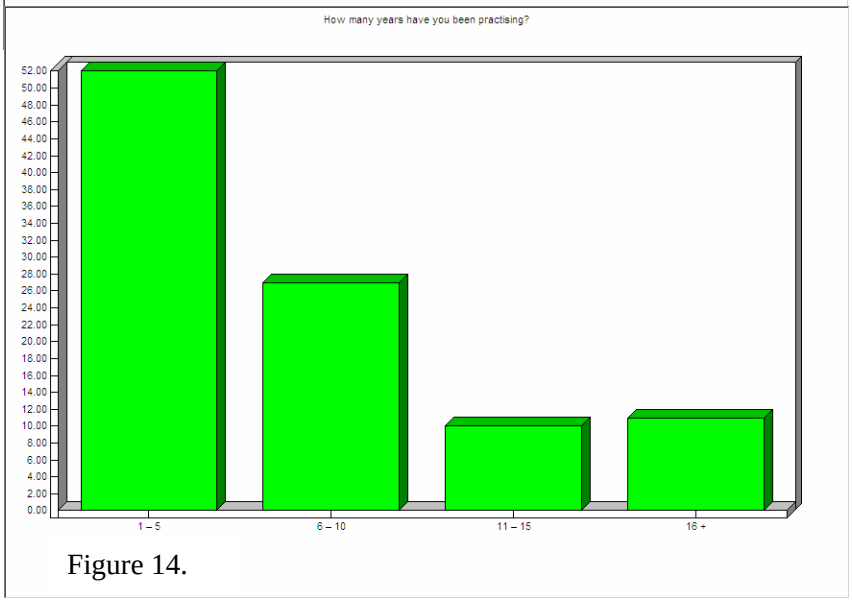



Figure 14.

The spread of age groups is reflected in the average years in practice of the sample group – with most (52.1%) in the 1–5 years in practice category (see Figure 14). The match between ages and years in practice is not always directly comparable – that is, the sample was slightly more experienced in terms of years in practice than their age might indicate – 27.4% had 6–10 years experience, 9.9% had 11–15 years and 10.4% had 16 plus years in practice. What is important in terms of this study is that the attitudes and experiences of this data sample are from people with a level of experience in legal practice that puts them in the most productive (and therefore more valued by employing firms) stage of their careers.

This reading of the data is further supported by the level at which the respondents were currently (or most immediately last) employed – the majority (28.5%) were at senior associate/associate level – the point where partnership for individuals, and the possibility of equalising the gender ranks at the most senior levels of the top 60 firms looms large (see Figure 15.). Because some firms use the rank of associate to denote senior solicitor ranks, it may be more accurate to read the senior associate/associate figure with the senior solicitor figure – the combined group

accounting for 34.6% (or just over a third) of respondents. The second highest group were respondents at the junior solicitor level (26.1%). It is important to note that respondents selected the category they felt best fitted them – so the definitions of junior, mid level and senior are somewhat open to interpretation and will reflect the understandings of rank in the respondents' current employment structure.

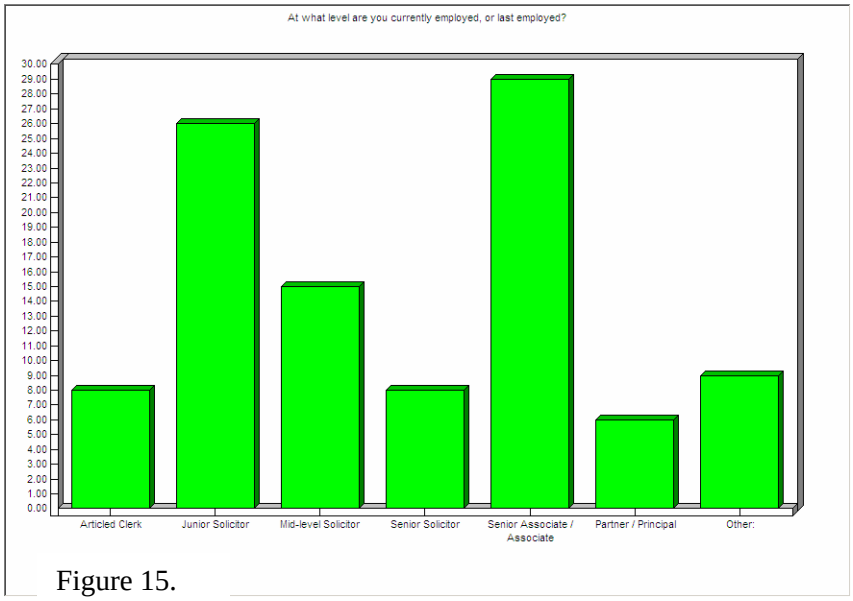



Figure 15.

However, that said, if the data is divided into those at the junior levels – including articled clerks – the sample has about one third of respondents at the beginning of their careers; the rest are at least at a level where the investment in them by the firm is yielding benefits to the firm. This is compounded in the breakdown of respondents who fitted into categories other than those listed – eight of the 30 who ticked 'other' were special counsel, seven were in-house counsel and three were consultants. (The rest were a diverse group and included a migration agent, paralegals, an office manager and a precedents manager).

| **Choice** | **%** |
|---|---|
| Articled Clerk | 7.5% |
| Junior Solicitor | 26.1% |
| Mid-level Solicitor | 14.7% |
| Senior Solicitor | 8.1% |
| Senior Associate/ Associate | 28.5% |
| Partner/Principal | 6.0% |
| Other: | 9.0% |

**Who employs the respondents?**

The majority of respondents were from the biggest firms in the state – 45.2% were from firms with more than 21 partners in their Melbourne office. The next largest groups of respondents (32.7%) were employed in much smaller firms – among the smallest in the state, with 1–3 partners; 14% were from firms with 4–10 partners and 8.1% were from firms with 11–20 partners. When asked about the number of employee lawyers in their firm (Victorian offices only), the respondent profiles were confirmed – 38.7% were in firms with 100 or more employee lawyers, 36.2% from firms with 1–10 employee lawyers, and an even spread of 8.4% each for respondents employed in firms with 11–20, 21–50, and 51–100 employee lawyers. In both of these questions, 10 respondents did not answer the question – because they were not employed in firms or organisations with a partnershiup structure (i.e. they worked for themselves, in in-house counsel roles, etc).

## Basic work conditions

The respondents were asked a suite of questions to determine some basic work conditions which form the backdrop against which the more detailed questions about flexible work practices can be viewed in relative terms.

Most respondents said the average number of hours worked each day excluding breaks was 9–10 hours (64%); 19.8% said 8 hours or less, 15.2% said 11–12 hours and 0.9% said 13+ hours (see Figure 16.).

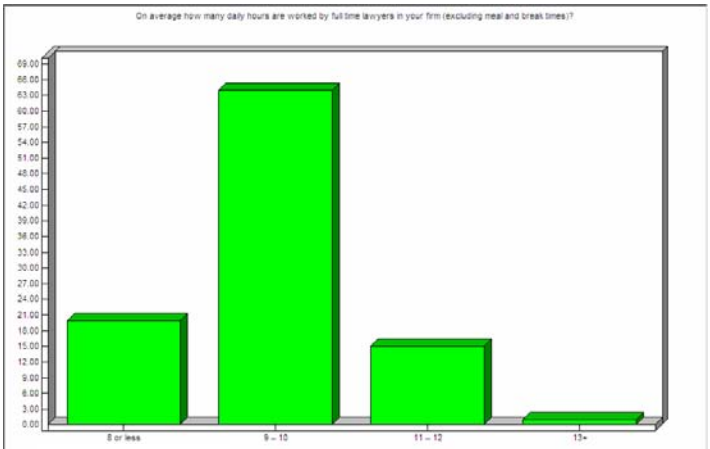



Figure 16.

Respondents were asked, for the purposes of determining to what extent work impinged on personal time, the extent to which they believed full-time lawyers worked during lunch breaks, took work home or worked on weekends. The propensity to work through lunch breaks *regularly* was very high, with taking work home, or working during weekends also cited as an event that happened for full-time lawyers at least *sometimes* (see Figure 17). While it is arguable, without a direct comparison, that these habits are likely in most workplaces when employees reach the level of experience of most of the respondents in this survey, what the data does establish is that the habit of allowing work to encroach into personal time is common – particularly the forfeiting of lunchbreaks. This occurrence masks the actual workload – that is, gives a false appearance of what can be expected of the full-time output capacity of a lawyer by increasing it beyond what is actually achievable in the allocated, paid, full-time hours.

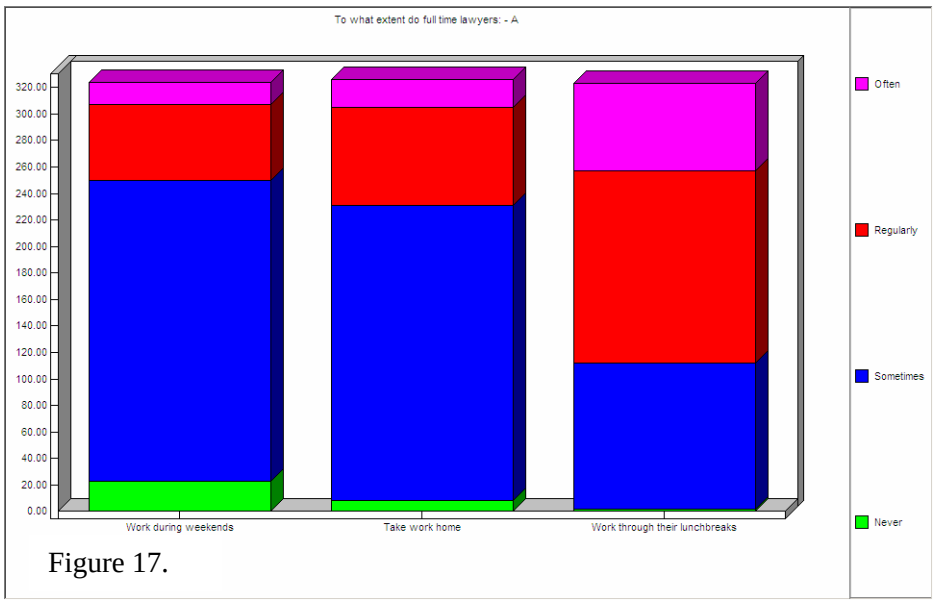



Figure 17.

The number of billable hours across three basic levels (solicitor/senior associate/partner) revealed that, on average across all firms and ranks, the most common requirement was for between 5 and

7 billable hours per day – although this level was more likely to be applied to solicitors. The heaviest billable load – where the likelihood was most likely to be weighted upwards, was at senior associate level – where there was the greatest likelihood of a requirement of between 7 and 9 hours per day. At partner level, this skew upwards was balanced by a drop in billable hours to 5 or less. Figure 18 shows the matrix pictorially. The majority of respondents answered this question, however, some did not respond to all categories – presumably because they did not know the expectations in their firm for all ranks of lawyers.

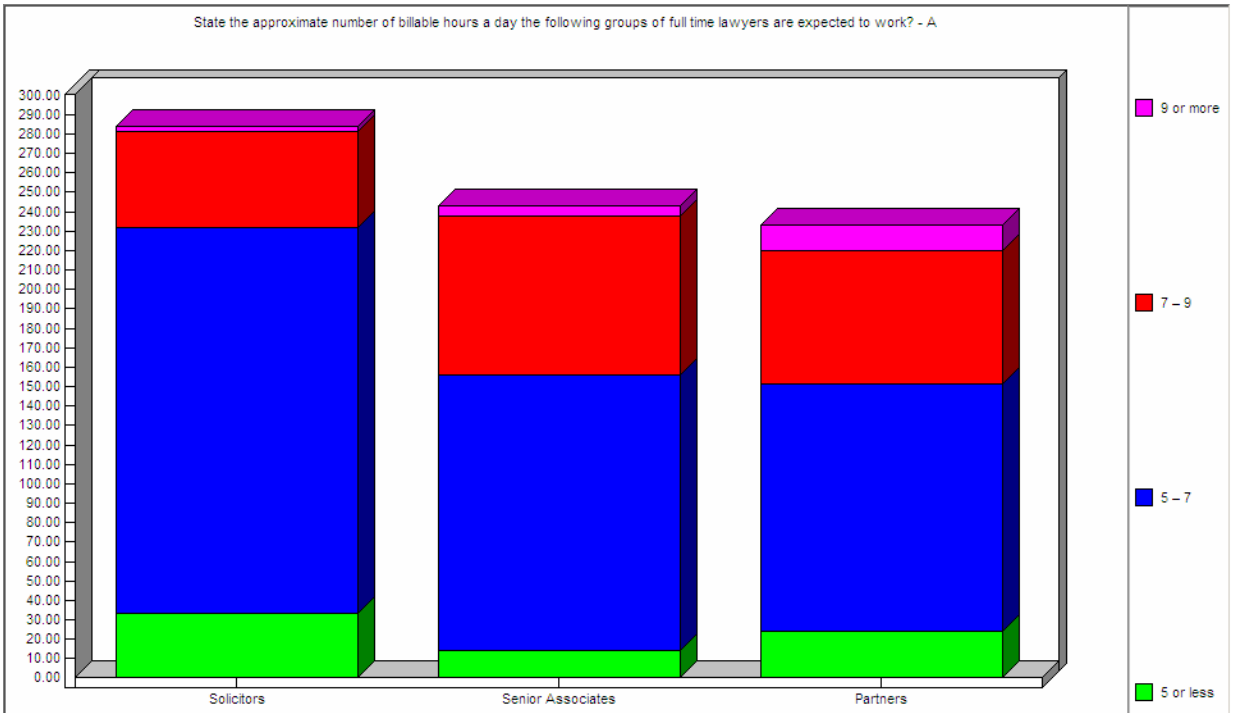



Figure 18.

## Knowledge of flexible work arrangements

Respondents were asked a series of questions to ascertain their knowledge of their employers' policies on flexible work arrangements and how much they saw this in practice – regardless of whether or not they themselves were in a flexible arrangement. The sample was then split into to those who worked full-time (63.9%) and those who worked in arrangements other than full-time (36.1%), to see what difference (if any) their status made to their responses to some key questions.

All respondents were asked if they knew whether or not their firm had flexible start and finishing times. The majority said yes (64.5%); 16.8% said no, and 8.4% did not know. Of those who said yes, most (40.1% overall) said the flexible start/finish times were at the firm's discretion; 18.4% said the firm allowed it as a matter of course; 3.9% indicated it was according to set policy guidelines; and 2.1% said it was available but no one used it. Overall 10.4% indicated that the firm allowed it, but cited a variety of situations – almost all of them amounting to 'at the firm's discretion': 'informally', 'on a case by case basis' or '*depends on the partner*'. What the answers

did clearly demonstrate was that there was no set understanding – and this was even within firms: *'partners who supervise me are open, but firm administration are not'.*

Of those who responded that the firm did not allow this flexibility (16.8% of total sample), by far the most popular answer selected was that the firm had never discussed the option with staff (and by implication did not allow it). A small number (3.3% of the total sample, or 20% of those who answered 'no') said the firm did not want the policy in place. One of the respondents commented: *'it says it does but it doesn't tolerate it'.* Another indicated that the option was available – but *'not for solicitors, only some support staff'.*

When asked about specific arrangements – part time, job sharing and working from home during business hours – respondents' answers indicated:

- Most knew of lawyers working in part-time arrangements, although 21% did not. Almost half (49%) knew of 1–5 lawyers working part time; 16% knew 6–10 lawyers, 9% knew of 11–20 lawyers and 6% knew of more than 20 lawyers in part-time arrangements.
- Most (73%) did not know of any lawyers working in job sharing arrangements; 24% knew of between one and five lawyers working in job share arrangements; 3% knew of more than five.
- Just under half (45%) knew of 1–5 lawyers who worked from home during business hours – with the same number (45%) knowing of noone in this arrangement.

A small number of respondents told of other arrangements –flexible hours (including to 'bank' hours to allow part-time work during school holidays), salary sacrifice to extend annual leave entitlements and, curiously, two mentions of secondments: *'secondment to client with good working conditions'.*

As previously mentioned, the total sample was asked if they were themselves in flexible work arrangements – most (63.9%) were not. This percentage includes 2.4% who had tried to negotiate other arrangements but had failed (see Figure 19).

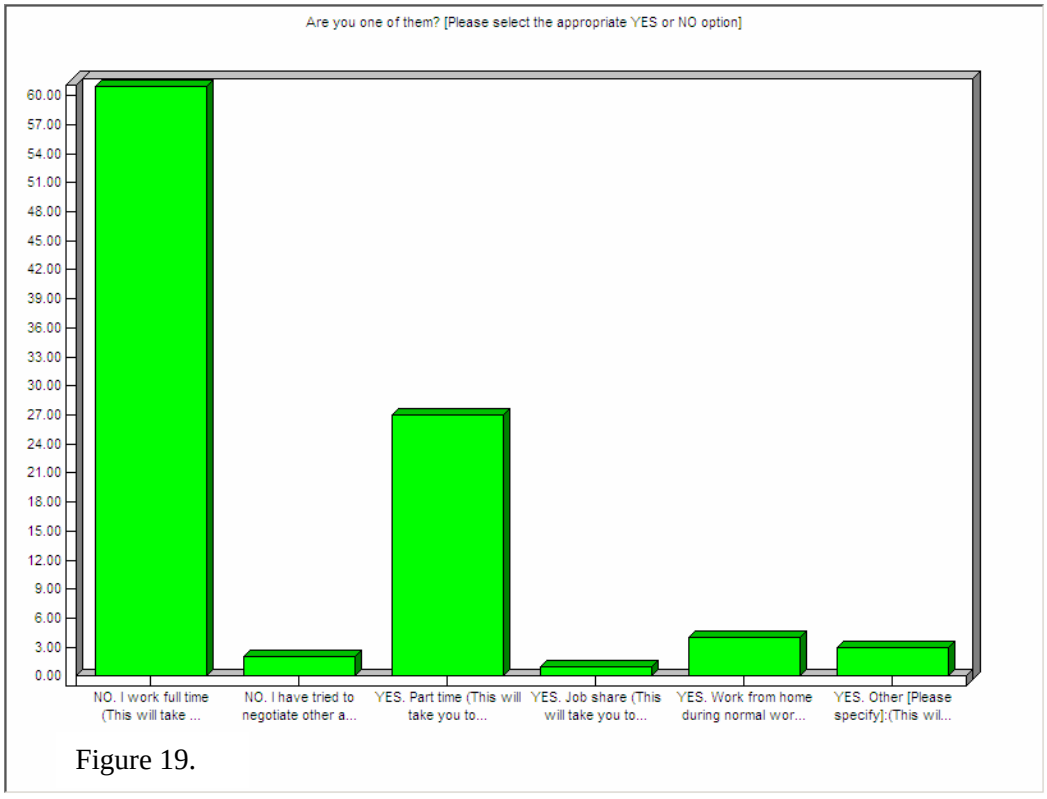



Figure 19.

For the 36.1% who were in other arrangements most were part-time (27.5% of total sample, or 76% of those in alternative arrangements); a much smaller group (4.5% of total sample) worked from home during business hours and 1.2% (of total) were in job share arrangements.

For those in flexible work arrangements, 67.8% said they did so because they were caring for children. This number is boosted by those who indicated 'other' reasons but included caring for children in combination with other reasons (9 of 17 respondents who selected 'other'). 11% of people in flexible arrangements were pursuing personal interests (see Figure 20.).

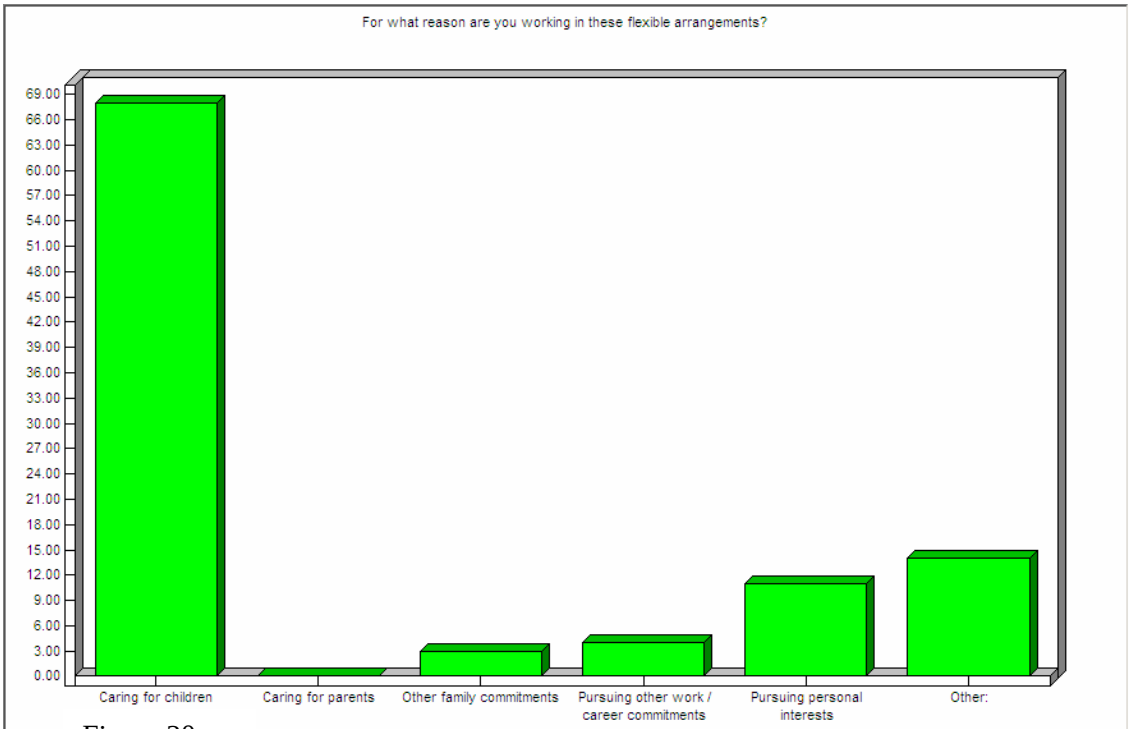



Figure 20.

Most (68.1%) were required to work a minimum number of hours, with most citing four days – although the definition of what constituted four days was rubbery – anywhere between 28 and 32 hours per week. Equal numbers of respondents said they worked either three days (although again the definition varied) or more than four days – either formally in a part-time role (for example, 35 hours) or flex time (40 hours). One respondent had an arrangement of working 30.4 hours each week, except school holidays, when they worked 15.2 hours per week.

The 'masking' effect of employees working more hours than they were paid (as reflected in the perceptions of workload for full-time lawyers) surfaced here too: one respondent said: *'35 (hours) are paid for, in reality I work 50–60.'*

Most were compensated on a pro rata basis (83.9%), with two respondents each saying they were paid above or below pro rata (1.7% each method). Of the 15 (nearly 13%) respondents who were compensated in other ways, most mentioned time in lieu arrangements. There were a few mentions of tax arrangements, partnership drawings and casual rates of pay or consultant rates.

Budgets were usually set on a pro rata basis (60.9%), with a small number being required to reach more than pro rata (3.6%, or four respondents) and 25.5% saying budget was not applicable to them. Of those who indicated other arrangements, answers were varied – but a few of interest included: *'department… has a budget – it's a team amount and not allocated to individual operators', 'no real budget', 'on assessment of WIP'* and *'not sure'*.

**Perceptions of those in flexible arrangements**

Equal numbers of respondents agreed/disagreed that their arrangements had been a 'career limiting move' (45.4% each); 9.2% couldn't say (see Figure 21.). Of those who thought yes, two themes prevailed: one was that they were no longer partnership prospects.

> *'It has been made clear to me that I will not be promoted to partnership unless I work full time.'*
> *'Have been advised that there is no opportunity for part time workers to move up in the firm.'*
> *'I do no client facing work and that is the part that makes it career limiting.'*
> *'…unlikely to become part time partner from being part time senior associate.'*
> *'My second pregnancy cost me a promotion.'*
> *'The organisation policy is that people working two days or less can't be senior lawyers.'*

The other theme was that they had brought all the downsides (including being perceived as second rate employees) on themselves – something which they had either come to terms with (*'when working school hours the type of legal work was not high profile, however the choice was mine', 'but my choice'* and *'lifestyle vs money'*) or felt resentment about (*'my loyalty, commitment and attitude has been questioned', 'basically I'm a safety net for other lawyers' overflow', 'salaries do not keep pace with full time'* and *'…have not been given any new referrals…[nor] any new substantive work'*). Some had taken roles as precedent lawyers, which they believed was not seen as *'a valid career choice in itself'*.

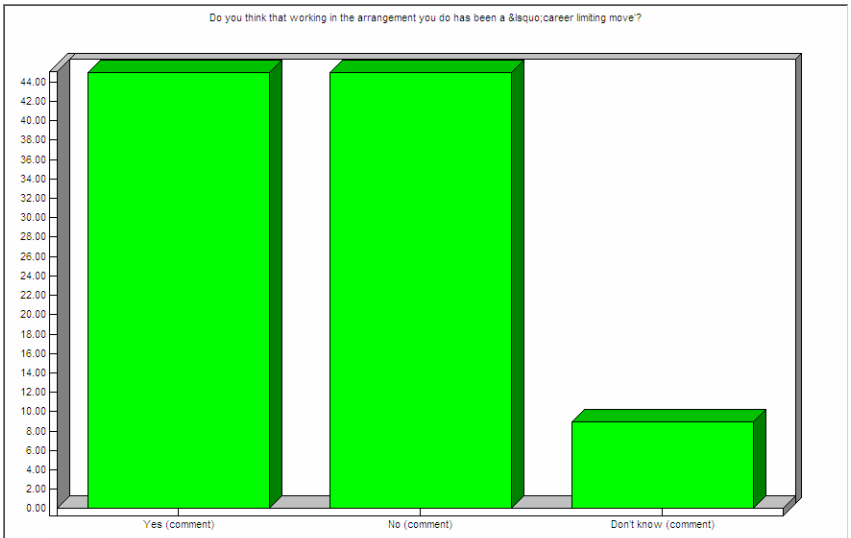


Figure 21.

The equal numbers who disagreed – and did not feel their career had been limited –were more focused on the positives.

> *'I see my career as diversifying beyond practice of the law'*
> *'Allows me to study and advance my knowledge'*
> *'I am continually learning from my colleagues but not making heaps of money'*

Others gave concrete examples of their efforts and skills being recognised regardless:

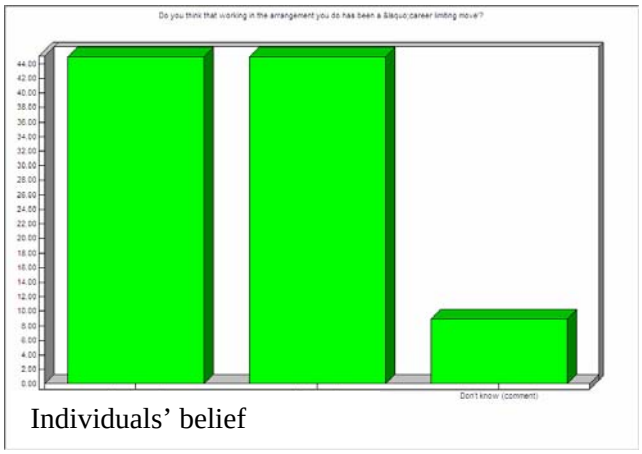
> *'My bosses give me challenging work, and while I am not available to do much marketing after hours, I am growing a career'*
> *'Been given high profile client to look after'*
> *'I have achieved partnership as a part time working mother – it just took a little longer'*

But a large number of comments put their success down to what can be loosely described as camouflage of their flexible work arrangements in the office:

> *'I make an effort to make sure I am not discriminated against because I work only four days'*
> *'large workload has been difficult to manage on a part time basis meaning that I often have to work full time hours'*
> *'I work harder and commit more because of the understanding I am afforded.'*

**What they thought others thought…**

The balance was tipped when those in flexible arrangements were asked whether they thought others saw their arrangements as career limiting – 59.3% said that they believed this to be the case, 24.6% disagreed and 16.1% did not know (Figure 22.).




Individuals' belief

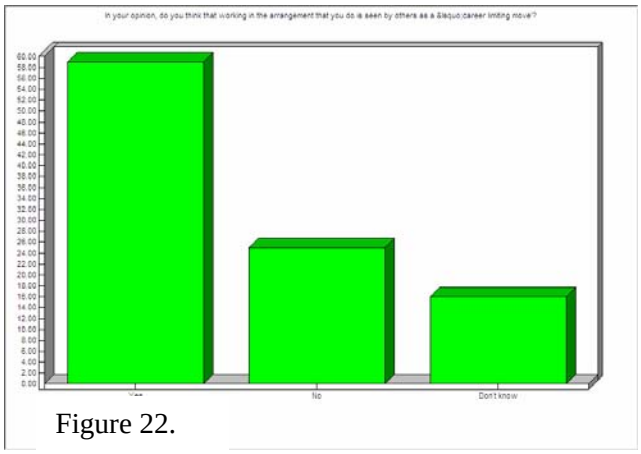



Figure 22.

Those that indicated 'yes' proffered some reasonable grounds for holding the view: *'very obvious comments have been made….especially by senior partners', 'no role models to suggest otherwise in the firm and no attitudinal or practical display of behaviours to suggest otherwise', 'it's pretty clear in our practice what is the "boy's work" and what is the "girl's work"'* and *'my partner decided not to give me new clients'*.

Of those who said no, few (five of the 29) offered any explanation. One simply said *'they're envious'*, another appeared to contradict themself: *'the type of work I do is very limited and does reduce my skill set'*.

When asked to rate the general response to these kinds of arrangements in their own firm, respondents in flexible arrangements said their colleagues and peers, and support staff, were likely to be positive or extremely positive, while HR teams and partners were rated as neutral to

positive in their responses. They were, overall, optimistic in their view of the way others in the firm viewed flexible arrangements.

**What the others actually thought**

There was a difference in what the respondents thought others would think of flexible work arrangements if they were not in these arrangements themselves: they were less likely to rate the opinions of others as positive. A particular difference was their rating of what partners thought of flexible work arrangements – they thought partners mostly held negative views of the arrangements, or at best would be neutral.. Employee respondents not currently in flexible work arrangements saw the responses of colleagues/peers, HR teams and support staff towards them as fairly equal – neutral to positive, with a slightly increased likelihood of positive responses expected from support staff.

Many respondents in the full-time employee category offered a variety of interesting comments which articulated many well-known and commonly held views about flexible work arrangements:

> *'performance is linked to billable hours… whilst valued contributors, part time employees are a tier below those working hard to make partnership'*
> *'client expectation that they will have a lawyer available whenever they want'*
> *'a real career staller'*
> *'a solicitor can only work effectively by sitting at a desk in a central office'*
> *'difficult in a litigation practice'*
> *'not possible in small firms'*

But there was also a strong sense of resentment – either directed at those who did have these arrangements in place or for their own lack of confidence in being able to achieve the same for themselves if they wanted it. There was a strong sense of 'if I have to suffer, then so should you':

> *'they generally create a burden on those continuing to work full time. Generally they are only permitted for women who make the lifestyle choice to have children…'*
> *'working flexible hours comes at a price – partnership prospects are damaged. I think this is more so for men than women, ie, if a man wanted to work four days a week he would have virtually no chance of being seen as a serious prospect for partnership…'*
> *'accepted for female partners with children but not for the rest of us'*

Many comments exhibited a kind of resignation to the issue; some had clearly had some experience in trying to make a flexible arrangement work:

> *'tolerated but not encouraged'*
> *'the official policy is supporting of these arrangements; the reality (depending on individuals) can be very different'*
> *'there is usually enough people (usually men) willing/able to make horrendous demands and work horrendous hours so that the status quo continues'*
> *'I applied to work a four day week when I became a single mother… I was retrenched shortly afterwards along with another part time lawyer (also a mother), a part time senior associate on maternity leave and three other female lawyers. Shortly afterwards a part time senior associate (who I know was highly regarded and very busy) resigned as the pressure was being put on her to work full time (she had a very young child).'*

*'An email was sent throughout our group telling lawyers they had to be at their desks from 8am to 6.30pm regardless of current work requirements and family responsibilities.'*

**Making it happen**

Most respondents who were in alternative work arrangements indicated that the process to achieve that result had been fairly straightforward – although there was a recurrent suggestion, which surfaced again in this series of questions, that there was a difference between what a direct supervisor, partner or manager thought and the views of the firm, or firm administration generally. This reflects the 'discretionary' aspect of the flexible work arrangements in practice. While it may be that respondents had the support of the partner directly in charge of them, with whom they had negotiated the arrangement, they encountered opposition or negativity from firm administration, colleagues or support staff.

*'Clients have no problems with the arrangement if you tell them, but colleagues take a while to come round.'*

Most (47.9%) found the process straightforward, and a further 21% said the arrangement was in place when they took the position. 15.1% found the negotiation process a struggle or very difficult.

*'Not much is said in relation to these arrangements although the impression is that part timers should be extremely grateful to be accommodated and that partnership would prefer full time workers.'*
*'not seen as part of the team; expendable'*

The remaining respondents described a variety of ways they came to their flexible work arrangement – the consistent thread being that it was on the individual's initiative and required some strength of conviction, including moving to new employment if negotiations failed:

*'fewer than four days was impossible'*
*'it's personally difficult to manage'*
*'I moved…. As the top tier firm refused part time'*
*'I offered to work for the firm on this basis only'*
*'must work much harder than full time workers to demonstrate their commitment'*

The key ingredients in making the arrangements work were almost exclusively up to the individuals involved to make it work – a combination of the attitude of the immediate supervisor/partner (58%) and an individual's determination to make it work (18.5%). A small number of respondents identified the need for a clear business case and/or acceptance and flexibility of colleagues (Figure 23.).

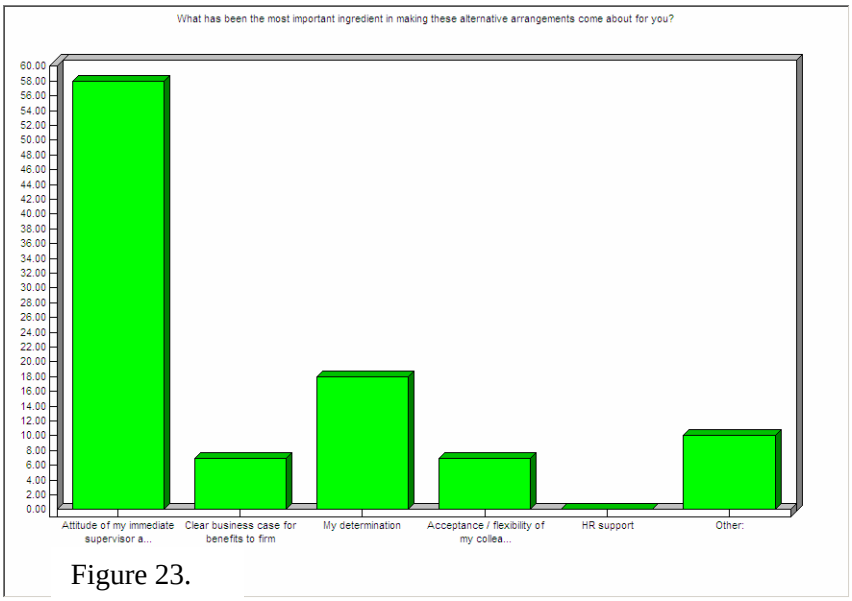



Figure 23.

*'I don't think that the value of having understanding and support at a senior level in your immediate work group can be underestimated.'*
*'Old style partners have difficulty in accepting the fact that you can be effective, and clients don't mind…. Thank God for the few partners who understand and fight for us.'*

Throughout the responses of those in flexible arrangements, there was a recurrence of the notion of part-time or flexibly employed workers as supplicants ('*a very generous gift on behalf of the firm', 'my part time hours are tolerated rather than welcomed'*) – a logical extension of the individualistic and discretionary approach to negotiating alternative arrangements.

The corollary of this approach is that those who are not currently in flexible work arrangements suffer by virtue of the perception that those who do have flexible arrangements are *'receiving favoured treatment'*. This attitude brings with it a level of disharmony: *'I have encountered envy from colleagues… they often then point out to me that in their opinion I am making a career limiting decision.'*

## Awareness of standard policies

Knowledge of the firm's policies on a range of workplace arrangements and issues was mostly unaffected by the status of respondents, in terms of whether they worked standard full-time or other arrangements. Knowledge of specific policies directly related to flexible work arrangements was only marginally higher in the group of respondents who were actually in those arrangements – and in both groups, considerably lower than half. The table below compares the groups by percentage who said they were aware (or not) of the policies listed.

| **Type of policy or guidelines** | Respondents in flexible work arrangements (total = 121) | | Respondents in standard full-time arrangements (total = 216) | |
|---|---|---|---|---|
| | **% Yes** | **% No** | **% Yes** | **% No** |
| Equal employment opportunity | 68 | 23 | 69 | 29 |
| Anti-discrimination | 69 | 24 | 71 | 27 |

| | | | | |
|---|---|---|---|---|
| Sexual harrassment | 72 | 21 | 73 | 25 |
| Flexibility over start/finish times | 26 | 60 | 20 | 69 |
| Part-time work arrangements | 45 | 44 | 33 | 59 |
| Job sharing arrangements | 26 | 56 | 18 | 70 |
| Working from home | 35 | 54 | 27 | 63 |
| Family-friendly principles and practice | 35 | 51 | 29 | 61 |

*(Note percentages do not add to !00% because some respondents in each group did not answer.)*

About a fifth of *all* respondents were unaware of their firm having *any* of the above policies (19% of those in flexible work arrangements; 21.2% of those in full-time arrangements).

> *'…partners will allege they do [have policies] but have never been able to produce a copy.'*
> *'none written. Like minded people here.'*

For those that were aware, they indicated that a copy of the policies was made available to staff (for example, via an intranet). Given that this was by far the most common way for employees to say they learned of the policies (53.7% of those in flexible arrangements, 47.1% of full-timers), it is perhaps understandable that knowledge of the existence of the policies is non-existent in a fifth of the sample. Much smaller numbers were provided with the actual policy documents (5% for flexibly employed, 11.1% of full-timers) or specifically trained (for example, in induction programs – 6.6% for flexibly employed, 9.6% of full-timers). Just over 2% of both groups said their firm provided specific training sessions on a regular basis.

For those who said they found out via other means, most indicated word of mouth (with colleagues or communicated via a partner in the firm) – and a number of those in the flexibly employed group said they knew of them because they either wrote them or trained staff in them.

## Entitlements – awareness and access

When it came to knowledge about basic entitlements (listed in the table below and illustrated in Figure 24), there was highest awareness of annual leave and sick leave and high awareness of maternity leave, compassionate leave and study/exam leave. Paternity leave, special leave and adoption leave were less likely to be known of. When asked if they knew of other kinds of leave, the most cited response was long service leave, unpaid leave, time in lieu, religious leave and leave for community services (defence, emergency services, blood donation). One respondent listed a 'healthy day off'; another listed additional leave based on seniority and another said there was an allowance for 35 hours per year for pregnancy-related medical appointments.

| **Type of leave** | **YES** | **NO** | **None available** | **No answer** |
|---|---|---|---|---|
| Annual | 319 | 9 | 4 | 3 |
| Sick | 305 | 23 | 4 | 3 |
| Maternity | 248 | 71 | 10 | 6 |
| Compassionate | 221 | 97 | 8 | 9 |
| Carer's | 201 | 112 | 13 | 9 |
| Study/exam | 200 | 105 | 17 | 13 |
| Special | 174 | 134 | 14 | 13 |
| Paternity | 167 | 128 | 22 | 18 |
| Adoption | 122 | 181 | 15 | 17 |

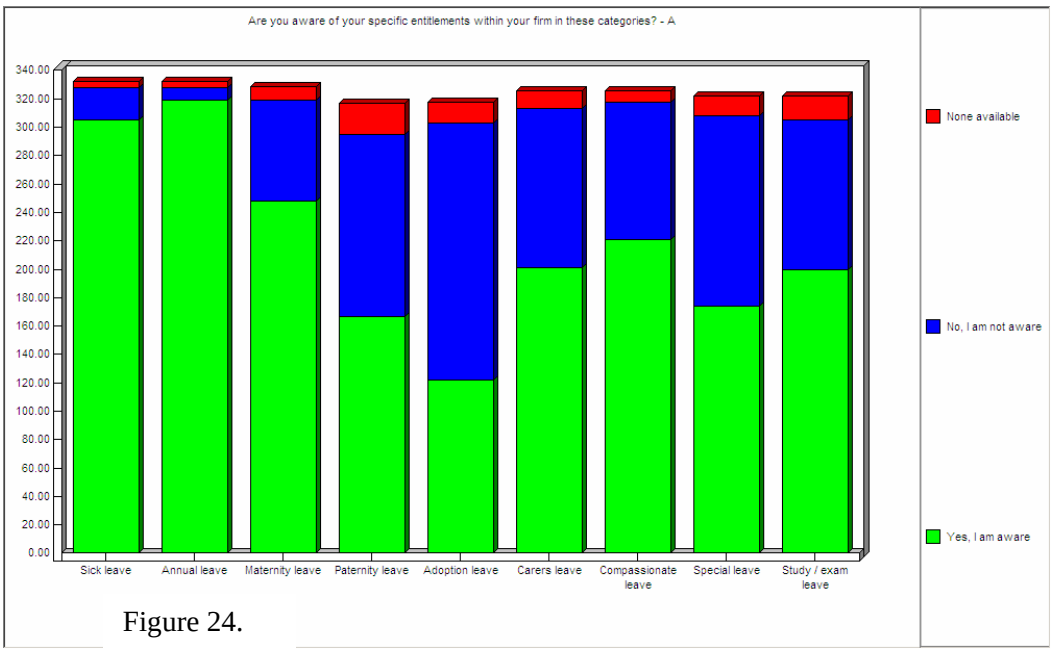



Figure 24.

However, a number of respondents indicated difficulties in accessing entitlements because it was at the discretion of their partners: *'I was almost not given bereavement leave when my father passed away'* and *'assuming there is no inconvenience to them [partners]'*. Overall, the majority (56.8%) were comfortable accessing the entitlements relevant to them; about a third (30.5%) were somewhat comfortable and 10.9% said they were not comfortable.

When asked about more complex scenarios for leave, the sample was less knowledgable and less confident in accessing the entitlement. Some of the knowledge is probably a product of the age and stage of career of the respondent – for example, they may not be close to long service leave entitlements (Figure 25).

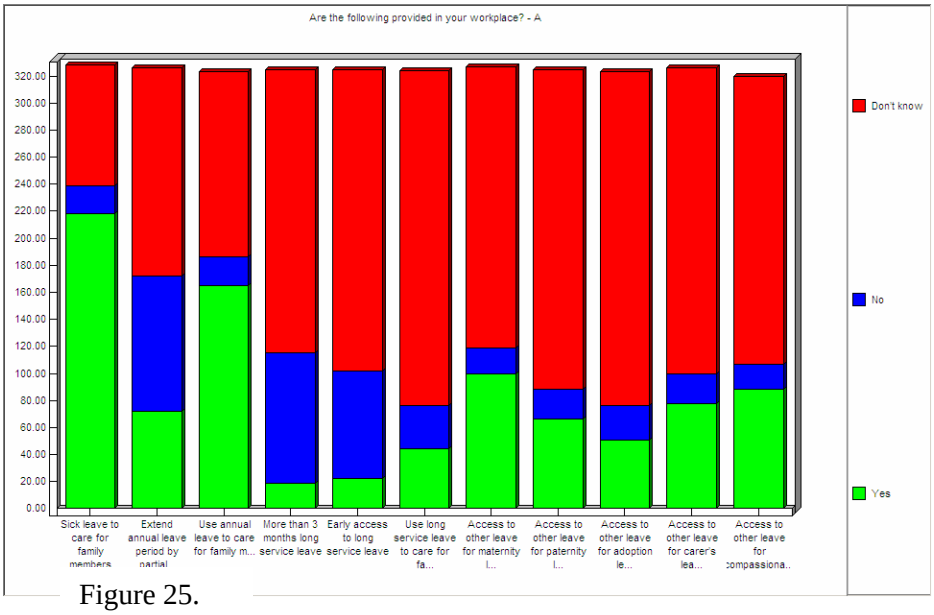



Figure 25.

Of the types of leave described above, their comfort level in requesting it did not vary much from that for the basic entitlements – 46.9% said yes, 33.1% said they were somewhat comfortable, 9.2% said no and the rest were undecided.

The vast majority of respondents (78.7%) did not know whether they could access compassionate or carer's leave to care for de facto partners, siblings, grandparents or same-sex partners; 20% or less said it was available for individuals to care for someone they knew who could be categorised in that relationship with the respondent (Figure 26.).

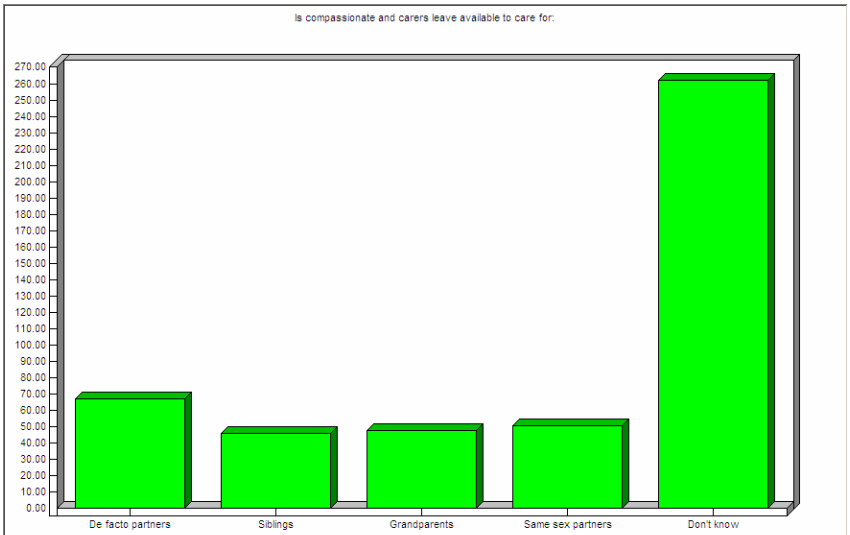



Figure 26.

The level of comfort individuals felt in asking for carer's or compassionate leave was less than for other leave entitlements – 36.7% said yes, 24.5% said somwhat, 26% did not know and 12.8% said no.