



Bringing employees back to the office



UK - Romania: Introduction



In the last few years, remote working has become an increasingly popular practice, with many companies adopting it during the pandemic. However, as working life gradually has returned to normal, many of these companies have started to rethink their flexible working policy.

In this article, our experts from UK and Romania are introducing some essential elements of the transition from remote work.



I.

Overview of the current context of home office

In the UK, for most employees in office-based roles, working from home has become the norm since the Covid-19 pandemic, with most employers offering at least some form of hybrid working and some employees now working in entirely remote roles.

Having said this, over the last year or so, a number of employers have started to make moves towards calling employees back to the office.



I.

Overview of the current context of home office

In Romania, the situation is similar, many employers are increasingly expressing a desire for their employees to return to the office, after a long period of remote working imposed by the pandemic.

As the 'back to the office' phenomenon intensifies, tensions in the employer-employee relationship are also generated, and in some cases these tensions turn into genuine employment conflicts.



II. Reasons why organizations choose for their employees to return to the office

There are several reasons employers may want to bring employees back to the office. In the last year, Amazon have cited a desire to strengthen their culture and JP Morgan Chase have pointed to the benefits of employees working together in-person.

Other potential benefits include boosting productivity, meeting customer/client needs and supporting younger employees who benefit from learning from more experienced colleagues in the office.



II. Reasons why organizations choose for their employees to return to the office

In Romania, there has been a growing tendency to call employees back to the office due to:

- the need to increase employee loyalty
- the need for monitoring when management becomes challenging
- the need to justify the costs of lease contracts (office space leases are generally concluded for long periods, with penalty clauses stipulating exorbitant amounts for early termination)
- in some cases, it has even been used as a tactic to determine employees into resigning voluntarily



III. Challenges associated with returning from teleworking

In several of the high-profile examples of companies recalling their staff to the office, there has been discontent amongst employees who have become accustomed to working from home and now face challenges with returning to the office. Working from home has enabled employees to benefit from easier childcare arrangements, reduced commuting time and costs, greater flexibility around the hours they work, and often a better work/life balance. Employees will naturally fear that they will be both financially and socially 'worse off' if required to return to the office.

From the employers' perspective, perhaps the biggest challenge with bringing employees back to the office is understanding the legal risks and required steps in order to do so:

- Employers need to be mindful of whether the hybrid working arrangements are contractual (in particular, there is a risk that the hybrid arrangements could have become implied into employees' contracts), in which case any change to the working arrangements would need to be agreed with the employee (unless the employer can rely on a mobility clause). Where agreement cannot be reached, it may be possible for an employer to effect the changes by terminating the employee's employment and offering them continued employment on the revised

terms but recent changes to the law around such 'fire and re-hire' practices have made this more difficult. There may also be obligations to consult collectively in such cases, as well as with employees on an individual basis. Further changes being made by the current Government (which are unlikely to be in force before 2026) will severely restrict an employer's ability to make contractual changes through 'fire and rehire'.

- There is also a risk that recalling all employees to the office could be indirectly discriminatory, particularly in relation to female and / or disabled employees or carers.
- Last year, the Government introduced wider rights for employees to request flexible working arrangements and it is therefore possible that employers could face an influx of such requests where they try to bring employees back to the office.

As well as legal risks, employers may also be conscious of wanting to stay competitive when looking to hire new employees. If all of their competitors are offering hybrid working arrangements, they may need to consider the impact recalling their employees to the office might have on their ability to recruit new employees.



III. Challenges associated with returning from teleworking

In Romania, the “back to the office” transition is not an easy one. One of the reasons is that many employees need to reorganize their working time and ensure the same work-life balance. They will also have to assess the financial impact of relocating to cities where the companies have their headquarters or workplaces, especially since many employees, starting with the pandemic, have chosen to work from their hometowns, thereby reducing costs.

In practice, many employment contracts grant employees the freedom to choose between remote work or office work. As a result, the employer is left with no possibility to unilaterally impose a return to the office under more fixed conditions.

In this case, it would be very difficult, if not impossible, for employers to persuade employees who have signed such an agreement to return to the office without offering additional benefits. At the same time, in order to avoid accusations of discrimination, employers will need to carefully consider how to offer such benefits only to a specific group of employees - namely, those returning to the office from remote work. However, an employee who refuses to sign an additional act, even if extra benefits are offered, cannot be sanctioned for this reason and will not be considered absent if they decide to continue working remotely.

In either case, employers need to consider whether they are willing to lose high-performing employees who may opt for another job that offers the possibility of working remotely.



IV. Solutions for facilitating the transition back to the office environment

In order to effect a successful transition back to the office, communication is likely to be key. Employers will need to explain their reasons for their change in stance and outline the benefits of a return to the office for both the employer and employees. Employees should be given plenty of warning so that they have time to deal with any difficulties a return to the office may cause them, for example in their childcare arrangements, and employers could consider whether there is any practical support they can offer to ease the transition. Employers should also consider whether changes can be implemented gradually and perhaps offer to review the changes at a fixed point in the future to assess whether it is still needed and achieving the expected benefits. This approach should both assist the employees in understanding the employer's reasons for making the change and may help to create a smoother transition back to the office.

Employers should also be mindful that 'one size does not fit all' and that recalling employees to the office will likely affect each employee differently. In light of this, employers should like to strike a balance between their needs and those of its employees when recalling staff to the office to try and mitigate the risks of creating an unhappy workforce.



IV. Solutions for facilitating the transition back to the office environment

Given the many complaints that may arise as a result of this change, if the employer decides to implement this transition, it is advisable for the employers to explain the decision in a way that prevents employees from perceiving this process as a negative change.

Even though discussions in other jurisdictions revolve around drastic measures being taken against employees who refuse to return to the office, Romanian legislation does not permit the sanctioning of employees who do not agree with the employer's new policy, especially if their agreement allows remote work at their discretion. In this situation, in order to modify the agreement in the desired direction, the employer could offer the employee the following incentives, such as: flexible working hours, an individualized work schedule, a hybrid work arrangement, extra benefits or additional holidays.

In any case, the employer should be open to any plans of accommodation to the new "office life" to ensure that the employee maintains their energy and motivation at work.



Oliver Calcott
Solicitor at
Doyle Clayton

Oliver Calcott works as an employment solicitor in our Reading office. He advises both organisations and individuals on all aspects of UK employment law.

He has experience in working on a wide range of Employment Tribunal claims, including worker status and whistleblowing claims, as well as advising organisations on workplace policies such as redundancy procedures and Covid-19 Vaccination policies. Ollie also has experience working with both employers and employees to advise on settlement agreements.

Read more [here](#).



Georgia VasIU
Senior Associate
at
Suciu – Employment and
Data Protection Lawyers

Georgia VasIU joined SuciU – Employment and Data Protection Lawyers as senior associate after having acquired her expertise in renowned local law firms. During her 14+ years of activity as an employment lawyer, Georgia has experienced a high level of responsibility, with a focus on restructuring and redundancies, collective bargaining, harassment at work, disciplinary dismissals and employment litigations. Georgia's expertise also covers corporate and commercial matters.

Read more [here](#).

