

Right to Disconnect in Australian Digital Workplaces

Barriers to changing norms and identifying success factors

The
Gender
Equity
Initiative



Aika Toktonazarova,
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Contents

Executive summary.....	2
1. Introduction	3
2. Background.....	3
2.1 Overview of the right to disconnect legislation in Australia	3
2.2 International context	4
2.3 Sociological institutionalism and social norms	5
3. Purpose and objective	6
4. Key implementation barriers.....	7
4.1 Legislation and norm change	7
4.2 Weak accountability mechanism	8
4.3 Current cultural context	8
4.4 Unclear policy goals.....	10
5. Defining success factors	10
5.1 Commitment to and expectations of corporate social responsibility.....	10
5.2 Dedicated internal monitoring	11
5.3 Engagement and awareness	12
5.4 Ethical leadership and trust.....	13
5.5 Successful example.....	14
6. Recommendations.....	14
Communicating and displaying expectations.....	14
Invest in capability of management.....	15
Employee consultation.....	15
7. Conclusion.....	15
References.....	17

List of figures

Figure 1 Conditions for a social norm to exist, adapted from Bicchieri (2005).	6
Figure 2 Actual hours worked (Australian Bureau of Statistics, 2024)	12
Figure 3 Working arrangements (Australian Bureau of Statistics, 2023)	12

Executive summary

Technology continues to shift the way we work. Digital tools allow employees to conduct work-related tasks from any location including in the home. This facilitates a culture of connectivity where workers may feel compelled to monitor and respond to work notifications outside of working hours. The negative effects of the “always-on” culture suggests that there is a need to intervene in current working practices to ensure that employees can prevent encroachment of work into time dedicated to leisure and maintain their work-life balance. Sociological institutionalism and social norm approaches are used to understand how this change can occur. Institutions can change through coercion, imitations, and normatively. Social norms are comprised of empirical and normative expectations. In this case empirical expectations are what people perceive to be the adherence of other members of the group to responding to communications out of hours. Normative expectations are what other members of the group expect of an individual to do and potential sanctions an individual may face for not responding to communication during out of office hours.

There are several implementation barriers that affect how effective the policy will be. The problem that the right to disconnect tries to address requires broad behavioural change and conflicts with other aspects of workplace culture. It seeks to align the views of a wide demographic but has unclear goals. Lack of clarity leads to organisations interpreting the goals as they see fit, which may result in an implementation gap. Furthermore, the compliance mechanism is weak as the Fair Work Commission is involved only if a case is submitted due to failure to be resolved internally. Despite these challenges there are several factors that could drive policy success. Existing corporate social responsibility practices can enable a commitment to preventing employee overwork. An internal monitoring system can assist organisations in making incremental changes to abandon always-on culture. Ethical leadership within an organisation can foster trust. Widespread information would ensure that working people across the nation are aware of their new workplace rights. An organisation that has successfully implemented the right to disconnect in its workplace should be highlighted so that other organisations are able to follow tangible steps in an uncertain environment.

It is recommended for organisations to communicate expectations via internal policies, invest in the capability of managers, and consult with employees. Clear communication, effective leadership and trust can support organisational change towards compliance with new legislation.

1. Introduction

The right to disconnect has recently been introduced in Australia in hopes of allowing Australian employees to delineate time dedicated for work and time dedicated for leisure. This type of legislation has been introduced in other jurisdictions over the past seven years and research evaluating different legislation across contexts continues to emerge. The legislation has been met with mixed reactions, where some have expressed support for change while others are concerned with potential negative consequences. It is important to note that the legislation is not seeking to end flexible working or employees being expected to work overtime. Employees can still be expected to do a reasonable amount of overtime. What the legislation hopes to achieve is ensure workers have clearly outlined expectations about their work pattern and whether they are expected to monitor and respond to work-related notifications during leisure. The scope of this paper is limited to workers who can perform their job via digital tools.

This paper will use sociological institutionalism and social norms to explore what challenges can impede social change. Institutions can be formal and informal and encompasses culture. This theory highlights that norms are internalised by people and guide behaviour as to what is perceived to be appropriate. Change in institutions can occur to reflect practices approved by the public. The paper will consider the challenges in implementing this policy informed by these ideas. The first policy implementations challenge is that the problem it is trying to address has two inherent characteristics making it difficult to solve. These include broad behavioural change in taking control of leisure time and aligning views of a wide demographic. The second implementation challenge relates to the capacity as the accountability mechanisms supporting the implementation are weak. Additionally, the paper will identify what factors can lead to policy success. These are existing commitment to corporate social responsibility, ethical leadership, dedicated monitoring, information dissemination, and examples of organisational success.

2. Background

2.1 Overview of the right to disconnect legislation in Australia

The right to disconnect is included in *Closing Loopholes No. 2 Act 2023* (Cth) and is a recent policy tool used to promote the human right to rest and leisure (United Nations General Assembly, 1948). In Australia, the right to disconnect prohibits employers from contacting employees outside of agreed

work hours unless contact is made due to an emergency, or the employee receives an availability allowance. The legislation also protects employees from having to monitor or respond to communication received from the employer outside of agreed work hours unless the refusal to respond can be deemed unreasonable. No definitions are offered of what situation constitutes an 'emergency' or in what circumstance failure to respond is 'unreasonable'. However, the Fair Work Commission outlines factors that are taken into consideration such as level of responsibility of the employee, personal circumstances, and compensation provided to determine outcomes. If an employer or employee raises a dispute, an attempt must be made to resolve it within the organisation before seeking input from the Fair Work Commission. Failing to adhere to the Commission's order can result in a penalty of \$18,780 for an individual and \$93,900 for a corporation (Golding, 2024). If an employee faces adverse action such as demotion or dismissal for practising their right to disconnect they can submit an application to the Commission stating that the employer breached general protection laws (Fair Work Commission, 2024).

2.2 International context

Since this policy tool is relatively new, there have been limited evaluations of right to disconnect legislations across different jurisdictions in the literature. The right was first introduced in France, where it was enforced from 2017. Since then, over fifteen other countries have introduced a version of the right to disconnect (Hopkins, 2024). Not all right to disconnect laws are identical in design. For example, in the Canadian province of Ontario employers are prohibited from discriminating against employees exercising their right to disconnect (Ogunde, 2023). Enforcement of the right to disconnect has been difficult to observe, and the lack of enforcement is identified as a barrier to compliance (Dale, 2021). Most notably, in France a case of employer non-compliance resulted in the organisation having to pay a fine approximate to \$100,000 (Dale, 2021). Pansu (2018) conducted a qualitative study consisting of twenty employees in France since the adoption of the right to disconnect and identified that at the time the policy had no significant impact on employee productivity. In comparing the legislation across France and Spain, Lerouge and Trujillo Pons (2022) suggest that both countries should ensure sufficient protection measures so that employees can invoke the right without fear of adverse action taken against them.

2.3 Sociological institutionalism and social norms

Sociological institutionalism can help understand what guides the behaviour of actors and how change can occur within institutions. Institutions here refer not only to formal institutions but also to informal ones such as culture (Sager & Gofen, 2022). Formal institutions refers to legislation and regulations while informal ones refer to the norms that drive behaviour (Farkas, 2019). This approach assumes that people behave based on what they think is appropriate according to the norms and values of the institution that they are a member of (Peters, 2016). Furthermore, institutions can alter individual members' identities and preferences (Hall & Taylor, 1996). This means that employees can internalise the norm of hyperconnectivity instead of questioning it (McDowall & Kinman, 2017). Conflict can arise when informal institutions are misaligned from formal ones. This theory assumes that institutions assimilate in three ways – coercion, imitation, and spread of new norms (DiMaggio & Powell, 1983). Through this perspective, institutions change only when doing so is seen as valid by broader society and likely to receive public approval (Hall & Taylor, 1996). Given this, it can be interpreted that the success of right to disconnect policy hinges on several factors to change broader working culture.

The problem can also be interpreted through a social norms perspective. Social norms are unarticulated rules outlining what an individual is empirically and normatively expected to do in a particular situation, where following the norm involves a cost to the individual (Andrighetto et al., 2024; Bicchieri, 2010). For a social norm to exist it requires two criteria. The first is that the individual believes that others would perform the expected behaviour (Bicchieri, 2005). The second is that the individual thinks others would expect them to perform the behaviour (Bicchieri & Sontuoso, 2020) or that others expect the individual to conform and may present sanctions for failing to do so (Bicchieri, 2005). Note that descriptive norms, also referred to as empirical expectations, convey what behaviour the community exhibits (Cialdini et al., 1991).

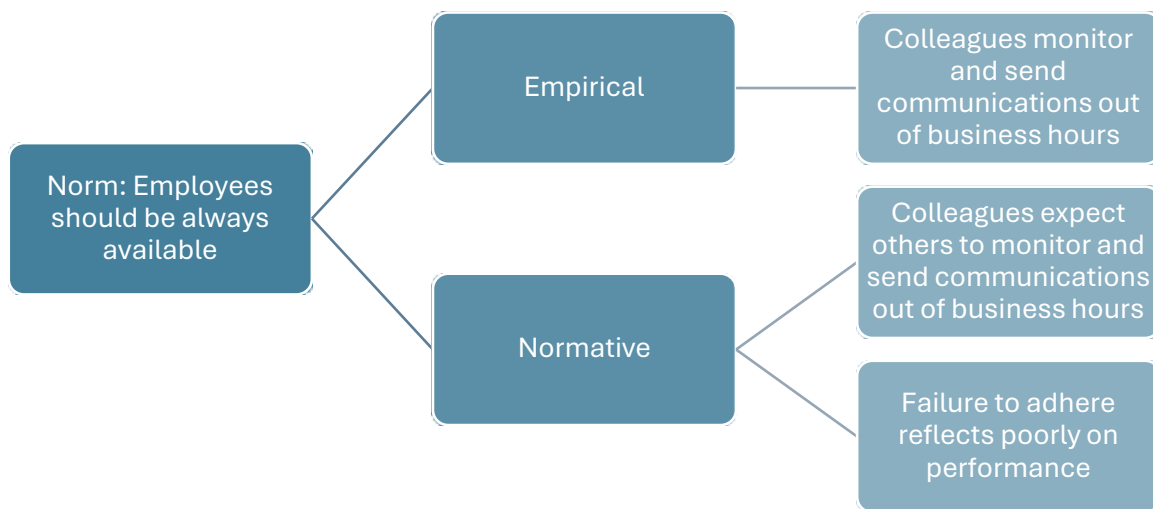


Figure 1 Conditions for a social norm to exist, adapted from Bicchieri (2005).

In this context, evolution of technological tools allow for a flexible working environment, where employees can conduct work at any time and location leading to blurring of work and non-work boundaries (McDowall & Kinman, 2017). This feature of working can facilitate a prescriptive norm where employees feel expected to respond to work-related notifications outside of work hours. Additionally, employees may feel pressure to respond due to negative consequences that can ensue for failure to conform even if it is not explicitly stated. Furthermore, digital workspaces can facilitate a descriptive norm to arise as people in organisations work outside of their designated hours. The legislation seeks to alter prescriptive norms in organisations by outlining what employers and employees should do. The goal is then to identify changes in descriptive norms as employees are less likely to be always available unless requirements to do so are outlined in their position descriptions. From this perspective, the right to disconnect can be interpreted as a tool to change prescriptive norms by outlining what is ought to be done. The social norm that it is trying to change is the expectation that employees should be automatically expected to be available to perform work-related tasks during their time dedicated to leisure.

3. Purpose and objective

This report will highlight factors that could contribute to an implementation gap and identify success factors. It will add to the growing literature on the right to disconnect by examining the problem

through social norms and new institutionalist perspective to identify possible solutions for organisations. Implementation gap refers to expectations of the policy exceeding the outcomes of the policy (Cairney, 2020). Compliance with legislation is staggered when widespread ideas and structures have to change in order to reflect new legal standards (Galligan, 2006). The implementation of the right to disconnect will not be enforced through a monitoring or compliance mechanism. This means that employers are open to interpret the law as they see fit and communicate any changes in internal policies to employees. This means that employees may still be eligible to perform a reasonable amount of overtime if it is outlined in their role requirements. As the Fair Work Commission only becomes involved in a dispute if it was not resolved in-house, there is an expectation set on the employer to clearly outline work hours and whether overtime is expected.

4. Key implementation barriers

4.1 Legislation and norm change

There is a need to explore whether institutional change to adopt the right to disconnect can occur through coercion. Legislation is used by policymakers to legitimate policy and facilitate social change (Friedman & Hayden, 2017). It can be appropriate to use legislation as a tool to manage norms when the norms have an adverse effect on wellbeing (Sunstein, 1996), such as in the negative effects of always-on culture. Legislative change is often used to force a new set of standards because abiding the law is a widely held social norm. However, for the right to disconnect legislation to create social change other factors must be present. Changing individual perception of norms relies on what the individual understands of the community's beliefs (Tankard & Paluck, 2016). An individual is likely to abandon a norm only if they observe that other members of the group, whose judgement they hold in high regard, also abandoned the norm (Bicchieri & Mercier, 2014). Consider that those whose opinions are held in high regard would be immediate team members, especially their manager. Therefore, employees need to witness their team leaders and colleagues utilising this right. Furthermore, to abandon a shared norm an individual must be guaranteed that they will not face sanctions for doing so (Bicchieri & Mercier, 2014). This means that normative expectations must change before empirical expectations. This highlights that employees will need to believe that they will not be punished for abandoning always-on culture and see that other members of the organisation no longer work outside of dedicated hours.

4.2 Weak accountability mechanism

Institutional change is unlikely to occur through coercion due to limited enforcement. The success of the policy depends on cooperation of employers. This dependency can negatively impact the success of the policy (Cairney, 2020). The Fair Work Commission can only enforce orders resulting from conflict that has been brought forward. It can be assumed that conflict that has been unresolved internally may be dropped and not submitted to the Commission to settle the case. Another challenge in implementing this policy is the capacity to ensure that it is operating as intended. The mechanism to keep organisations accountable for carrying out legislation is weak. Again, the Fair Work Commission is unaware of all internal conflicts occurring across organisations and cannot hold people accountable for misconduct in unsubmitted cases. Otherwise, organisations are expected to have internal accountability measures in place. Employees will need to be able to witness or have an indication of behaviour change in the organisation to exercise their right to disconnect. However, there is no national agency tasked with enforcing or monitoring compliance meaning that it is up to organisations to self-regulate until conflict cannot be resolved in-house. This means that organisations are required to develop an internal policy and compliance mechanism. There is a reliance on organisations having good governance models in place. As the policy relies on employers' cooperation, the outcomes of the policy may not meet its expectations.

Employees can face sanctions for failing to respond to a work-related emergency contact outside of working hours. As the law does not define what constitutes an emergency or when failure to respond is unreasonable, an organisation can outline a definition that fits its operations. Although the right to disconnect is under general protection laws, unequal power relations between the employer and employee may not result in just outcomes. A question worth considering is whether an employee who lodged a complaint to the Commission against the employer could face sanctions for doing so.

4.3 Current cultural context

A challenging aspect of the policy's implementation is that it requires behaviour change and may face resistance due to conflicting, long-standing cultural context. For successful implementation, the law should reflect popular views (Bicchieri & Mercier, 2014). There is a need to consider the broader beliefs that shape organisational cultures and how the right to disconnect fits into existing values.

Neoliberalism is a dominant ideology that affects the workplace. One of the results of neoliberalism is a greater focus on reaching outlined performance outcomes and normalisation of overworking

(Telford & Briggs, 2022). Australian work culture was found to be more horizontal individualist as autonomy, self-reliance, and equality are celebrated virtues (Noordin & Jusoff, 2010). Over 12% of employed Australians dedicate at least fifty hours per week to work, which is higher than the 10% OECD average (OECD, 2020). Additionally, almost 30% of employees felt that job resources, such as training, were inadequate to meet job demands (OECD, 2020). Digital workplaces and flexible working enabled an always-on culture of work as it is no longer confined to a specific location leading to hyperconnectivity (Hopkins, 2024). Employees in professional services and managerial occupations are more likely to work from home, where 60% in that group work remotely compared to only 22% for employees in other fields (Australian Bureau of Statistics, 2023). Chung (2022) identified that flexible working can lead to self-exploitation – known as the flexibility paradox. Furthermore, this phenomenon is experienced differently by women with caring responsibilities who experience an increase in hours dedicated to unpaid work.

Lack of recognition and acknowledgement that workplace cultures can have detrimental impacts on employee health exacerbates the issue. Workplace wellbeing and work-life balance have become pertinent topics in policy and research contexts (Guest, 2002). Employee wellbeing literature highlights that digital workplaces can have negative effects on employees. There are several negative outcomes due to technology-facilitated work. One of them is technostress, which is stress onset by use information and communication technology (Tarafdar et al., 2007). Other negative outcomes include anxiety, work-family conflict, and overload (Marsh et al., 2022). The work environment that contributes to these effects is characterised by constant connectivity, interruptions, and organisational norms (Marsh et al., 2022). Failure to clearly delineate work and leisure time for flexible workers can lead to work-home interference and conflict (Johnson et al., 2020). Women in Australia experience high levels of work-nonwork interference (Ruppanner & Huffman, 2014). Digital workplaces have a negative effect on physical as well as mental health of employees (Johnson et al., 2020). Furthermore, technostress has a negative impact on an employee's productivity (Tarafdar et al., 2007). Workplaces have a direct interest in maintaining a productive workforce, increasing retention, and improving morale to prevent losses (McLellan, 2017). Employers need to promote positive employee health outcomes that respond to changes in working environments so that business risks associated with poor employee wellbeing are mitigated.

4.4 Unclear policy goals

Another challenge of the policy is to align the views of a broad demographic. Although the policy seeks to prevent encroachment of work tasks during leisure time, the goals are not clear or well understood. This uncertainty allows for multiple interpretations that can result in poor implementation (Cairney, 2020). The act was introduced by the Australian Greens who outlined that this legislation could help achieve several goals. They argued that this right can help employees maintain work-life balance, support workers who sacrifice personal time for unpaid overtime, and support employees' mental health (Pocock, 2024). Furthermore, they have suggested that this would benefit people with caring responsibilities who must provide care as well as perform paid work. There is a need to consider what are the specific goals of the policy. From this it can be inferred that the goal of the policy is supporting employees' mental health and reduce unpaid overtime. The policy was supported by the Australian Labor Party who argued that the right is needed to protect the right to leisure since technology has affected the way Australians work (Australian Labor Party, 2024). The legislation has drawn criticism from the Liberal Party of Australia due to its potential to complicate business administration as well as the lack of clarity on how it is expected to affect productivity (Liberal Party of Australia, 2024). This signals that another way to assess the effectiveness of the policy is its benefit to employee productivity. This highlights that the right to disconnect has a broad set of goals that are difficult to measure. This highlights that the legislation is subject to different interpretations which are based on the views and values of the implementer in an organisation.

5. Defining success factors

5.1 Commitment to and expectations of corporate social responsibility

Organisations that commit to respecting the human right of employees and customers to rest and leisure are more likely to embody best practice. Corporate social responsibility requires organisations to coordinate their operation with current social values (Ralston, 2010). Note that right to disconnect legislation is a formal norm. There are greater expectations of organisations to meet ethical and social standards they are subjected to (Lindgreen & Swaen, 2010). Broad public approval for and expectation of the right to disconnect can lead institutions to change their practices and adopt what is deemed acceptable conduct. Organisations effect a wide range of stakeholders including primary stakeholders – suppliers, customers, employees -- as well as secondary stakeholders, who are

affected by organisation's actions without directly interacting with it (Ralston, 2010). Organisations that are focused on the triple-bottom line have a more positive image which in turn has a positive impact on employee satisfaction (Barakat et al., 2016). There is a risk of corporate social responsibility indirectly leading to employees not being able to disconnect from work, particularly for employees who identify with their organisation and find the work that they do meaningful (Brieger et al., 2020). An organisation committed to its responsibility to protect employees would communicate the norm to disconnect from work, which is then internalised by employees.

5.2 Dedicated internal monitoring

An organisation that is aware of current expectations experienced by employees can develop a relevant best practice guide that addresses current problems. This requires personnel who are able to monitor norm uptake and enforce compliance to new legislation. Some of the metrics that could be useful include actual hours worked and proportion of employees explicitly expected to be on-call as per their position description. Note that these metrics are collected by the Australian Bureau of Statistics which can be used to compare against organisational data. In the last ten years, there has been a slow decline in the proportion of workers working over 45 hours per week. Measuring the proportion of workers who are usually required to work overtime can help decision makers identify if new norms are adhered to. Another useful metric that can illuminate the impact of changes is the level of technostress experienced by employees. Monitoring the level of compliance across the organisation can allow decision makers to better respond to changes incrementally through a cyclical process (By, 2005).

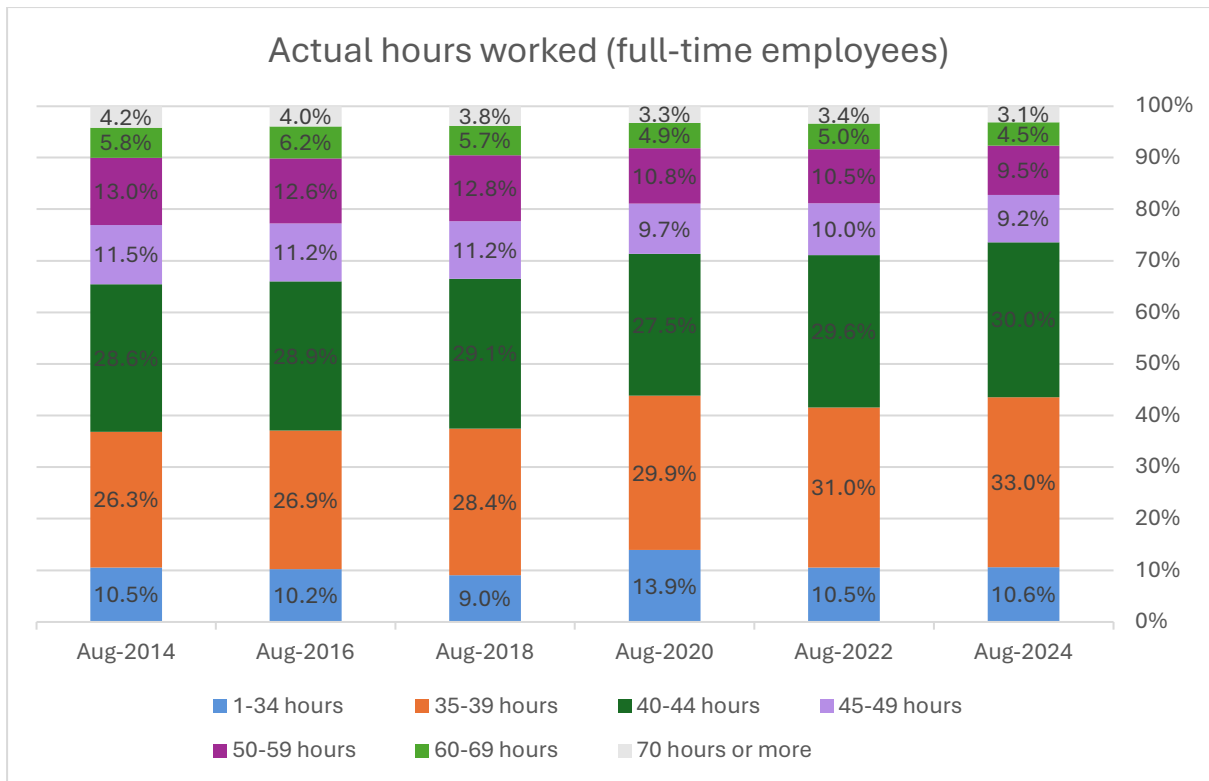


Figure 2 Actual hours worked (Australian Bureau of Statistics, 2024)

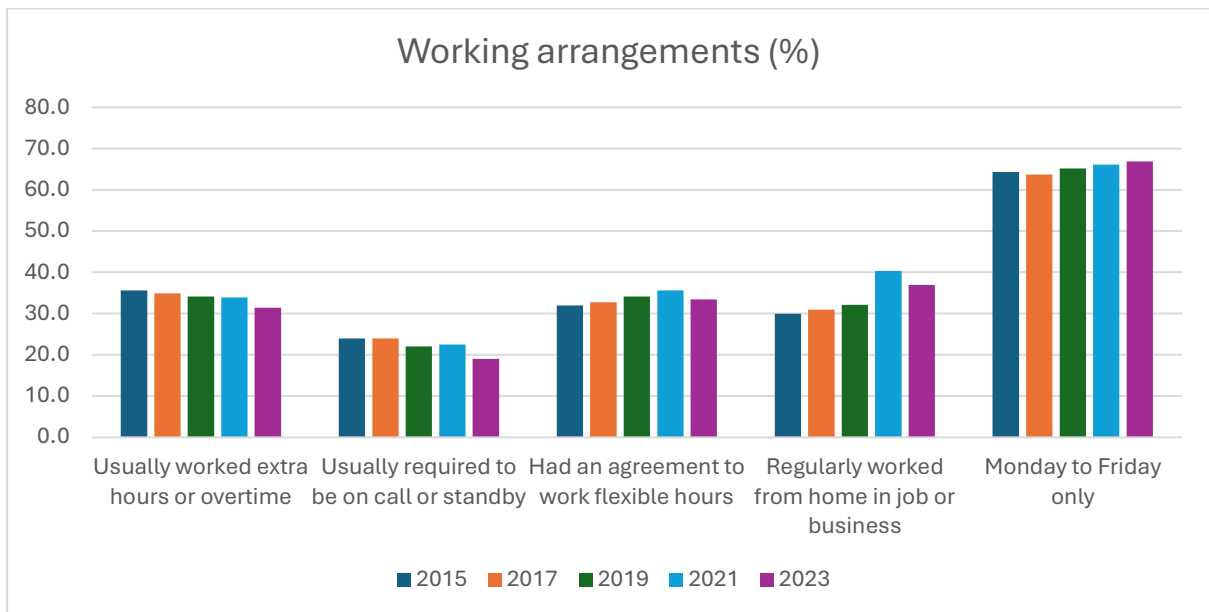


Figure 3 Working arrangements (Australian Bureau of Statistics, 2023)

5.3 Engagement and awareness

Success of the policy relies on employees knowing their new workplace rights, why they are in place, and how to escalate grievances. Organisations that develop clear policies providing suggested

conduct to employees and managers regarding sustainable digital work habits would inform employees of escalation processes and communicate expectations explicitly. Not all employers have the capacity to draft internal policies in line with legislation and put it into action. This would ensure that members of the population who do not engage with mainstream news sources would receive an update on changes. However, a national information campaign is also needed as there is no requirement for workplaces to communicate these changes. Information campaigns are an important aspect in guiding the population to abandon norms that have a negative impact on wellbeing. Macdonald (2023) estimates that full-time employees complete six hours of unpaid overtime per week. This level of time theft equates to over \$13,000 of lost annual wages. There is a need to spread information on the negative effects of always-on culture including lost wages, increased stress, and adverse effects on family to change perceptions of norms (Tankard & Paluck, 2016). These steps can guide people to take on suggested behaviour.

5.4 Ethical leadership and trust

Employers with strong leadership can lead the organisation to change practices. Ethical leaders are people-centred, exhibit ethical actions, and set accountability standards (Treviño et al., 2003). There is potential for confusion and inconsistency around why the right to disconnect is needed. The new law is expected to be enforced by employers before escalating to the Fair Work Commission. This means that leaders are in a position to define policies as they see fit for their organisation and personnel within the broad parameters set out by the law. As identified earlier, social norms are comprised of both normative and empirical expectations and for a norm to change both expectations need to be altered. Based on this, there is a need to consider what current factors may impede change to empirical or normative expectations. The national policy relies on cooperation of employers. Managing personnel need to have the necessary people management skills as well as knowledge of the policy goals to be compliant. This includes senior executive staff as well as middle management. Trust can support learning and knowledge sharing that build practice in organisations (Bulatova, 2015). Professional training content needs to reflect expectations set out by right to disconnect legislation. Opportunities in professional development can then reinforce normative change mechanisms that occur across institutions.

5.5 Successful example

Organisations can undergo mimetic change if an institution can set a good example that would allow other organisations to follow suit. The right to disconnect legislation creates an uncertain environment due as the problem that the policy is trying to address and the solutions may be unclear (DiMaggio & Powell, 1983). Highlighting an organisation that has successfully implemented the policy for their workforce has potential to trigger change by other organisations understanding what to implement in times of uncertainty. The Chief Executive Officer of Slack, Denise Dresser, has stated that to address employees' inability to disconnect managers need to be able to set boundaries in the workplace through demonstrating desired behaviour rather than blame technology for facilitating hyperconnectivity (Black, 2024). For Dresser, positive behaviours in promoting disconnection from work include scheduling messages and emails and being unresponsive during the weekend. This behaviour change can signal to employees a change in empirical expectations as colleagues would not read or monitor communications during odd hours.

6. Recommendations

The following recommendations are suggested for organisations to ensure compliance with the right to disconnect policy.

Communicating and displaying expectations

Workforce managers need to address expectations by altering the mentality around connectivity through formal and informal avenues. Organisations should develop internal policies that outline what is expected of employees and leadership as well as how conflict escalation should occur. Ideally this should be done in a way that supports employee autonomy by informing them of the negative consequences of always-on culture. This should be supported by senior leaders demonstrating behaviour that is expected of employees. Pansu (2018) has suggested that email signoffs can communicate to others that an instant response is not required. However, this would require someone to open the email and read it until the end, which requires some effort from a worker. Companies such as Volkswagen have outlined expectations in communications etiquette after-hours (Boswell et al., 2016). This provides an opportunity for employers to define when a response is expected after-hours, what type of communications should be sent, and through what means it should be sent to support delineation of work and leisure.

Invest in capability of management

Senior leaders must support human resources by investment in middle managers to improve their capabilities. Management and leadership skills are not prioritised enough where only 14% of employers focus on this area (AHRI, 2024). Communication skills are an crucial factor of managerial performance and should be developed to guide organisational changes (Bambacas & Patrickson, 2009). There is a need to ensure that people leaders have the training required in interpersonal skills to set expectations and manage conflict to ensure they meet the demands of their job. Similarly, there is a need to ensure that professional training for people managers reflects the norms set out by the right to disconnect. This would trigger institutional change through a normative mechanism.

Employee consultation

Perceptions of norms can be addressed through information and consultation. Trust is an important element in organisational change (Morgan & Zeffane, 2003). Human resources professionals designing organisational policy should consider integrating employee input, as it can make decision-making transparent and power shared between employees and leadership (Kougiannou et al., 2021). One of the ways that input can be provided is through culture committees to increase engagement and address challenges experienced by employees on the matter (Siocon, 2024). This could ensure that definitions vague in legislation can be defined by the organisation in terms of what constitutes an emergency and when refusal to respond is unreasonable. This solution has potential to create greater awareness of employees' new right as it would be an organisation-wide process supporting worker autonomy. If consultations with committees are too demanding, surveys can also be used as a tool to manage change (Wiley, 2012). Both methods require that decision makers are accountable for actions taken following suggestions to mitigate risk of undermining trust.

7. Conclusion

The human right to leisure is difficult to uphold in societies where great emphasis is placed on work and productivity. Always-on culture remains a difficult problem to address as it requires behaviour change of a wide demographic that have differing views of the issue. Additionally, the weak enforcement mechanism means that non-compliance may go unpunished. Sociological

institutionalism and social norms theory highlight the complexities involved in social change. Abandoning always-on culture requires collective commitment in adhering to the right to disconnect and managing employee perceptions. This requires an understanding of current practices, a capable leadership team to manage change, and communication of expectations. Future research on the right to disconnect should evaluate the implementation of the policy against goals of reducing technostress and better delineation of work and leisure informed by employee experiences.

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