

Parenting and the work/life balance: how are SA legal firms addressing these issues?

By Shelley Dunstone, Legal Circles

In 1980, when my classmates and I started going to job interviews, we quickly learned that we would be asked “Do you intend to have children?”, and that the correct answer was ‘No’. You either had a career or children, not both. Equal Opportunity legislation means this question can no longer be voiced, but that doesn’t stop it from hanging around unspoken.

I contacted a variety of law firms to see how they are handling the question, and discovered that things have changed quite a bit. Parenting issues are now part of a wider picture of people wanting a better balance between work and private life. There are more women in the legal profession, wanting to stay there and also have a family. Men, too, want to be able to spend time with their children and be involved with their upbringing.

One issue for firms is that the budget includes your projected billings for the full financial year. If you are home with a baby instead of working at your desk, you are not earning profits for the partners or contributing to overhead costs. Another is the issue of availability to clients. Yet no one is available all the time and there would be a problem if you were!

Parenting leave

The Industrial and Employee Relations Act 1994 provides minimum standards for parenting leave. After 12 months’ continuous service you are entitled to up to 52 weeks’ unpaid leave. Leave is supposed to start six weeks before the due date, but apparently some lawyers cannot tear themselves away from work, taking files to hospital and dictating between contractions. Fathers can take a week’s unpaid leave when their partners give birth, or sometimes use annual leave. Some firms allow a few days’ paid leave. Fathers and mothers can split the twelve months’ unpaid leave, but cannot both take it concurrently.

When planning to go on maternity leave, you need to talk about your plans for returning to work, and the firm’s plans for you. Jane Webb, Human Resources Manager of Phillips Fox, said “We work things out consultatively before people go on leave. It is important to know what you are coming back to and that you are valued by the firm.’

Janette*, a lawyer with seven year’s experience, took a risk when she was offered a new job with a small firm, explaining that she intended to start a family. The partners appreciated her openness and have allowed her to work part-time since have her baby.

Staying in touch with the firm during your absence will make your return to work easier. Circulars and newsletter can be emailed to keep you informed.

Administrative staff tend to take a longer break than solicitors, who often come back after a few months. However, firms sometimes offer support staff on maternity leave the chance to do a few days' work here and there, which they are often keen to do.

Many people are concerned that paid maternity leave would be a deterrent to employing women. However, overseas schemes are funded by government or insurance or a combination of these, and employers have the option to supplement the basic payments. During my second pregnancy I qualified for paid maternity leave (12 weeks on half pay) while working for a University. I spent it on domestic help and child care for my older child. Being able to rest helped me to return part-time after three months.

Several managers said that their firms were considering paid maternity leave, for reasons of retention, reward and recognition for valued employees. Some did not think it necessary, as it is classed as a 'return to work bonuses and most of their workers returned to work anyway. Some firms were looking at childcare relief options.

Some firms already offer paid maternity leave. There is a qualifying period and staff must return to work afterwards for a minimum time. Minter Ellison offers four weeks' full pay or eight week's half pay for the primary caregiver. Human Resources Manager Steve Schuumans said "You want to keep good people, and this an investment in our staff members.' Johnson Winter & Slattery offers 8 weeks full pay. This is available to all female employees but there is a longer qualifying period. Phillips Fox offers four weeks' full pay (or eight weeks half pay), then another four weeks pay upon returning to work, with the amount based on the fraction to be worked. Hunt & Hunt pays a "return to work allowance". Staff who qualify receive a week's salary for every year of service, capped at ten weeks. The allowance can be accessed upon returning to work, by submitting receipts for child-related expenditure.

Partners are sometimes paid during their absence. One firm I spoke to has made provision provides for maternity leave in its partnership agreement. Another firm's agreement provides that all partners can take a maximum of 12 months off for any reason before losing their profit share.

How firms cover parenting leave

I found no consensus as to whether lawyers or support administrative staff were easier to cover during maternity leave. Some managers said administrative staff were easier to replace as they had a defined set of duties. They would replace them with in-house floating staff or someone on a fixed term contract. Others said it was easier to replace a lawyer than a good secretary.

There was little interest in using locum lawyers. However, lawyer Jonathan Miller, who moved here from Scotland a year ago, said that maternity leave locum contracts are very common in Edinburgh. One Adelaide firm had seconded a lawyer from a client company for a few months. Most firms either absorb the work or hire someone permanently in anticipation of a growth in work. Susan Comerford, Practice Development Manager of Johnson Winter & Slattery said 'Because our lawyers work across several areas we can

usually find someone to take over when a lawyer is away.’ Of course, childbirth is not the only cause of extended absences. Long service leave and serious illnesses also leave a gap to be filled.

Return to work options

You are not automatically entitled to work part-time when you return from maternity leave. But many people, both lawyers and support staff, want to return part time, and firms are increasingly accommodating that desire. The biggest surprise in my survey was the high degree of satisfaction which firms expressed with their part-time workers.

Firms say that part-time partnership works well. Partners are highly motivated to make the arrangement work, and they have resources available to them which mean they can delegate. Some male partners and solicitors also work part-time for lifestyle reasons, and managers spoke positively about this sort of arrangement.

Managers advocated a gradual return to work. A woman could start by working from home, and then add a day or two each week in the office.

Job sharing is now a common arrangement for support staff. Good communication (between job sharers, with lawyers and with clients) is the key to a successful job-share arrangement, as is flexibility on the part of staff. One advantage of having part-time support staff is that there is some extra capacity to draw upon in busy times, as people sometimes like to do a bit of extra work.

Managers spoke positively about the value of part-time lawyers. “They put their heads down and work efficiently because they have to get it all done in the available time” said David Sinclair, General Manager of Lynch Meyer. No particular types of legal work were seen as more difficult than others to do part-time. However, part-time lawyers are generally expected to make themselves available on days when they do not usually work. Andrea, a litigator, said “I am on call all the time, even though I am paid for three days a week. I always deal with emails on my days off. And if a client wants something done I will do it rather than take the risk of putting the client off-side”. She added that in the early stages negative attitudes were difficult to overcome, with some partners commenting ‘You’re never here.’ Megan, who returned to work ten weeks after each birth, said “It was pretty hard. I did feel that I missed out on important things with my children. But as a partner I had an investment in the firm. I felt a sense of duty to the firm and the clients”.

Teamwork is a key to managing both absences and part-time work. Managers spoke of the importance of not relying on just one practitioner to serve a client. People have to be prepared to fill in for others. They also have to be prepared to let go and allow someone else to do their work. Everyone gets sick sometimes and everyone needs holidays.

A good secretary can be a huge help to a part-time lawyer. It should also be recognized that just because a lawyer is not in the office, the secretary is not necessarily idle, as there may be typing to be done from the previous day.

With lap tops, mobile phones and remote access to the office on-line, working from home has turned out to be a real option for lawyers. Some firms also have secretarial staff typing from home and sending the work in electronically.

Clearly, flexible arrangements can work well, if there is a willingness to make them work.

* Names have been changed.