

**FLEXIBLE AND PART-TIME WORK
ARRANGEMENTS IN THE CANTERBURY
LEGAL PROFESSION**



Flexible and Part-time Work Arrangements in the Canterbury Legal Profession

A Report prepared by the University of Canterbury Socio-Legal Research Group
for the Canterbury Women's Legal Association

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Executive Summary

In 2015 a research team in the School of Law at the University of Canterbury developed a project with the Canterbury Women's Legal Association to gather information about flexible and part-time work practices in the Canterbury Legal Profession. For the purposes of the project, part-time work is defined as a form of employment which carries fewer hours per week than a full-time job. A flexible work arrangement is defined as an arrangement where an employee benefits from working practices that offer different degrees of structure, regularity and flexibility. Such arrangements may include the ability to choose the start and finishing time of the working day or compressed work weeks.

In November 2015 the Canterbury and Westland Branch of the Law Society, on behalf of the project team, invited all qualified lawyers practicing in the Canterbury and Westland area to participate in a short online survey examining flexible and part-time working arrangements. An invitation was also sent to all legal executives working in the same area.

One hundred and thirty eight responses were received and over 90% of these were from female lawyers and legal executives. Although lower participation rate by males is reported in other studies focusing on the legal profession, the gender split in the responses in this project was far more pronounced, suggesting a lack of interest by local male lawyers in this issue.

Survey participants were either practising lawyers or legal executives, with legal executives making up 21% of the survey cohort. Fifteen percent of the cohort identified as employers. Ninety six percent of the employee cohort was working on a permanent contract of employment. Just under 50% of the employee cohort were working under a flexible or part-time arrangement.

Key findings:

- The most common reason given for working part-time was care-giver responsibilities. This was also the most common reason for lawyers to work flexibly. For legal executives the most common reason for having a flexible work arrangement was to achieve a work-life balance.
- Most flexible work arrangements are informal in nature.
- Formal policies relating to flexible or part-time work are rare.
- A majority of employees with a flexible work arrangement indicated it had worked as intended. A majority of employers indicated that such arrangements worked well or very well. However, there was a divergence of views regarding the impact of such arrangements on employee's career paths. A majority of employers whose employees have a flexible work arrangement did not perceive this to have had a negative impact, but employees were more likely than not to assess such arrangements as having some negative impact.
- There was also divergence on how such arrangements were viewed in the workplace. A majority of employees with an existing arrangement indicated that their employer and colleagues were supportive, but were less sure that their clients were supportive. Those

employees without an existing arrangement were more equivocal on the issue of employer and colleague support for those with existing arrangements.

- A majority of employees without a flexible work arrangement were of the view that working a flexible number of hours was not a possibility with their current employer.
- A majority of employees working on a part-time basis thought their arrangement had worked as intended. However, over half of lawyers working part-time assessed this as having a negative impact on their career path and/or progression, as did a majority of employers. A majority of legal executives working part-time perceived no negative impact on their career.
- A majority of part-time lawyers and legal executives viewed their colleagues and clients as being supportive of the arrangement. Over half of employees without a part-time work arrangement did not think that their employer would approve a request to work part-time.
- A majority of employees with a flexible or part-time work arrangement would continue in paid employment if their arrangement did not exist.

Many of the findings of this study appear to confirm trends in the general literature on flexible and part-time work arrangements. These include:

- Women who undertake paid employment still continue to do most of the unpaid care as part of raising children.
- Most employees do not base their request for a flexible work arrangement on relevant legislative provisions.
- Part-time working arrangements are more likely to be seen as having a negative impact on career progression than flexible work practices.
- Formal work policies on flexible and part-time work rarely exist.
- Men are less likely to use flexible and part-time work arrangements.

Part-time and Flexible Work Arrangements in the Canterbury Legal Profession

I Introduction

In 2015 a research team in the University of Canterbury Socio-Legal Research Group, developed a project with the Canterbury Women's Legal Association (CWLA) to gather information about the experience of and attitudes to workplace practices in the Canterbury legal profession. Understanding workplace practices is important because such practices often have strong impacts on gender equality. Motherhood has a profound impact on how women participate in paid work and more women than men desire or seek part-time or flexible work arrangements (hereafter referred to together as flexible work or flexible work practices) or withdraw from work altogether to look after dependent children¹ and indeed others. Paid work and legal practice in particular persistently retain performance requirements based on the paradigm of a male employee able to work full-time or long hours because he has a wife or partner minding hearth and home. In this context, part-time and flexible work arrangements are regularly championed as significant components of a gender equality strategy for the workplace.² It is therefore essential to test whether such arrangements in practice do make a difference to gender equality.

Work practices in the New Zealand legal profession have been little investigated to date.³ Well over half of law graduates in many parts of the world, including New Zealand, are female, and yet male lawyers strongly outnumber women in the higher ranks of the legal profession. In order to develop the most effective reforming strategies, it is important to investigate how much of this inequality is due to the way law is practised. For these reasons, the project team concluded that two areas inviting empirical investigation are part-time and flexible working arrangements within the legal profession.⁴

¹ S Flynn and M Harris "Mothers in the New Zealand workforce" (paper presented at the LEW16 conference, Wellington, 27-28 November, 2014).

² S Yeandle *Women's Working Lives* (Tavistock, London, 1984); I La Valle, S Arthur, C Millward, J Scott and M Clayden *Happy Families? Atypical Work and its Influence on Family Life* (Policy Press and Joseph Rowntree Foundation, Bristol, 2002); J Rubery and R Tarling 'Britain' in J Rubery (ed) *Women and Recession* (Routledge, London, 1988).

³ A recent national study focussed on the general work experience of junior legal practitioners, which included work satisfaction, work-life balance, remuneration, retention, the effectiveness of legal education, and the experience of junior women lawyers. While most were satisfied with working life, a significant proportion expressed concern about issues such as work-life balance, flexible working arrangements, remuneration and mentoring. Female junior practitioners were no less satisfied in their professional lives than their male counterparts, nor did they report a significantly lower likelihood of remaining in the profession in the future. However, almost two-thirds reported that their gender impacted negatively on their prospects in the profession: Josh Pemberton *First Steps: The experience and retention of New Zealand's junior lawyers*, (New Zealand Law Foundation, Wellington, 2016) at 39-47; http://www.lawfoundation.org.nz/wp-content/uploads/2016/06/First-Steps-The-Experiences-and-Retention-of-New-Zealands-Junior-Lawyers-29_6_2016.pdf. An earlier study focused on the experiences of women in the New Zealand legal profession: see N King *Raising the bar: women in law and business* (Thomson Reuters, Wellington, 2014).

⁴ While this report was being finalised, a report by in-house lawyer Sarah Taylor was published: S Taylor *Valuing Our Lawyers: The untapped potential of flexible working in the New Zealand legal profession* (New Zealand Law Society, Wellington, 2017): <http://ilanz.org/assets/Uploads/Sarah-Taylor-Valuing-Our-Lawyers.pdf>. The engaging non-academic study based on 60 interviews carried out nationwide investigated flexible working in the

The project was developed to focus on part-time employment as a form of employment which carries fewer hours per week than a full-time job; and flexible work arrangements, which are those where employees benefit from working practices that offer different degrees of structure, regularity and flexibility.⁵ In particular, the CWLA and the UC research team were motivated to find out whether Canterbury legal employees and employers feel that part-time work in various legal fields is viable and what the impact of such practices is on the legal workplace and on the employee. Also of interest were what expectations employees and employers have in relation to flexibility, how common such arrangements are, and how they are managed.

While the study was developed to investigate the reality of part-time and flexible work experience within the legal profession in Canterbury, the results have been analysed and are discussed in the context of the extensive body of scholarly work now existing worldwide on employment law and practices generally. Therefore the study addresses the nature of choice in relation to work practices pursued and adopted; why most employees, including those in the legal profession, do not take advantage of formal pathways to flexible work; and why existing statutory provisions are weak. Also addressed are the ways in which employers may exploit flexible working practices at the expense of the employee, and the fact that while employees' level of control over working hours is important in mitigating work-family conflicts, the autonomy to choose the time worked is used differently by each gender. Thus, the types of flexible working arrangements which are made available by employers appear to differ depending on whether the employees are male or female, and the perception and the value of flexible working time may likely differ according to who is taking advantage of it.

Furthermore, employers in general have been shown to be reactive rather than proactive in the area of work-life reconciliation. Failure to embed formal and/or overt policies and processes in a workplace puts the onus on the employee to seek an exemption from the 'norm', suggesting a lack of real commitment to flexible work in the workplace. In the legal profession, resolution of the tension between a business model where long hours are valued, and the increasing recognition that work-life balance is important, will be key. It seems the answer will not be to transfer those long hours to the home or elsewhere, it will lie in changing the culture of law firms.

In terms of the structure of this report, the methodology employed is set out in Part II below. Findings are set out in Part III. The broader context in which the findings sit, including a brief literature review, are the subject of Part IV. A final section, Part V, sets out suggestions for future action. The detailed survey results can be found in appendices 1-7.

legal profession, with a focus on in-house lawyers. Many of the findings are remarkably consistent with those in this report.

⁵ Such arrangements may include: the ability to choose the start and finish time of the working day; the ability to take time off in compensation for overtime; compressed work weeks (such as working for four longer days and taking the fifth day of the week off, or working a nine day fortnight); flexi-place practices such as working from home or another place one or several days a week, job sharing where two people share a full-time position, or career flexibility that allow a change of careers and/or career breaks for personal or family reasons without career penalties; leave options, including maternity/paternity/parental leave in addition to statutory entitlements, sabbatical and career breaks.

II Methodology

In November 2015, the Canterbury and Westland Branch of the Law Society, on behalf of the project team, invited all qualified lawyers practising in the Canterbury and Westland area to participate in a short online survey examining part-time and flexible working arrangements in the Canterbury legal profession.⁶ A link was also sent via email to all legal executives working in the same area.⁷ This potential cohort of 1413 professionals was sought in order to obtain as comprehensive a view as possible of beliefs and experiences of the working population across demographic variables and across the spectrum of part-/flexi/full-time work arrangements. Information for lawyers regarding the survey was posted in a weekly electronic newsletter with a readership of all qualified lawyers practising in the Canterbury and Westland area. To increase the likelihood of a higher response rate from both lawyers and legal executives, a link to the survey was sent the following week, with a repeated short explanation of the survey. Two reminders were sent in the following two weeks,⁸ after which time, the survey closed.

III Findings

Findings are grouped under a number of headings. First, the demographic make-up of the full survey cohort (138) is set out. This is followed by a summary of an analysis of the data generated by the following six groups within the wider survey cohort:

1. Employees in flexible work arrangements (n=34);
2. Employees in part-time work (n=52);
3. Employees with neither flexible nor part-time work arrangements (n=32);
4. A comparative analysis of lawyers (n=86) and legal executives (n=29);
5. Employees in prime child caregiving age (n=92); and
6. Employers (n=20).

The findings section concludes with a summary of key trends.

⁶ The advance alert sent to lawyers in the week of 11 November, 2015 was in the following form: “**SURVEY ALERT:** The Canterbury Women’s Legal Association and the Socio-Legal Research Group of the University of Canterbury Law School will soon run a short online survey to gather information on part-time and flexible working arrangements in the Canterbury legal profession. They are interested in perspectives of employers, colleagues and part-time and flexible employees from all participants in the legal profession (ie solicitors, barristers and legal executives). If you are interested in completing the survey (around 15 minutes), please look out for the link, which will be included in this newsletter in the next fortnight.”

⁷ The message sent to legal executives electronically was: ‘Win a \$100 book voucher! The Canterbury Women’s Legal Association and the Socio-Legal Studies Research Group (at the University of Canterbury) are currently running a short online survey to gather information on part-time and flexible working arrangements in the legal profession in Canterbury-Westland. They are interested in perspectives of employers of part-time and flexible workers, colleagues of part time and flexible workers, and part-time and flexible workers themselves - from all participants in the legal profession (including legal executives). On completion of the survey, you can go into the draw to win a \$100 book voucher. If you are interested in completing the survey (around 15 minutes), please click here.’

⁸ The reminders to lawyers included reference to the possibility of winning a \$100 book voucher, which was not included in the original notice.

A full and complete analysis of the data summarised in this part is set out in Appendices One – Seven.

A Demographics and Participation Rates

A visual demographic snapshot of information in this section is set out in the tables in Appendix One.

One hundred and thirty eight survey responses were received.⁹ Notably, over 90% of these were from female participants. In the survey results, eighty-six (nearly 73%) of participants were solely lawyers, only 5 of which (nearly 6%) were males.¹⁰ Employees also comprised the majority by far of participants, as only 20 participants identified as employers.

1 Gender

Very few male lawyers responded to the survey and the reason for this remains unclear. Practising lawyers in Canterbury in 2015 numbered 1255 at the time of the survey, of which just over half, 655, were male. It is striking that of the 138 responses, 126 (91%) identified as female. Furthermore, of the 138 participants, 106 (nearly 77%) worked part-time or had flexible work arrangements. This was a disappointing result in one sense, as our intention was to obtain the views and experiences of both genders, and of both those working part-time and/or under flexible work practices or not. After reflecting on the result, we investigated the possibility that our invitation to take part in the survey was deficient in some way. However, the various invitations and reminders to complete the survey we sent emphasised that all legal practitioners and legal executives were being invited to take part. The invitations were sent to all practising lawyers and legal executives without distinction. The heading of the messages sent was neutral, merely referring to a survey alert, an important legal survey, or a reminder about an important legal survey. In the later messages for lawyers, and at the outset for legal executives, the inducement of the chance to win a \$100 book voucher was mentioned.

A lower response rate by males in the legal profession is consistent with other studies. The recent national New Zealand study focussing on the general work experience of junior legal practitioners had a male response rate of only a third (253 out of 785 respondents).¹¹ The survey was carried out by use of an email from the Law Society containing a link to an online survey to all lawyers with practising certificates issued in 2013 or later. The survey was also sent to all current judge's clerks at the High Court and appellate courts. The potential pool

⁹ With a total of only 138 completed responses received, a 10% response rate, the data is not statistically representative of the group surveyed. Nevertheless, the information provided by the participants provides important insights into many of the research questions we sought to answer.

¹⁰ The Legal Executives Committee sent our survey to the 124 legal executives on its books. All of these were female. A very small number of legal executives are male but have chosen not to receive communications from the Committee. In our survey, nearly a quarter (25%, or 29) participants identified as legal executives.

¹¹ J Pemberton *First Steps: The experience and retention of New Zealand's junior lawyers*, (New Zealand Law Foundation, Wellington, 2016) at 5; http://www.lawfoundation.org.nz/wp-content/uploads/2016/06/First-Steps-The-Experiences-and-Retention-of-New-Zealand's-Junior-Lawyers-29_6_2016.pdf. See also King, above n 3, at 110 where females made up 82.3% of responses to a survey seeking to assess the position of women in the legal profession.

was 1,818. Candidates were told responses would be anonymised and completion the survey put the lawyer into a draw for a possible prize.

The Australian National Attrition and Re-engagement Study Practising Lawyers Survey, carried out for the Law Council of Australia in 2012, had a similar result. The research was carried out to investigate reasons for attrition of women from the legal profession in Australia. However, the survey of practising lawyers that was part of the research was headed in a neutral way: 'National Attrition and Re-engagement Study Practising Lawyers Survey', and was sent with a communications flyer and link to the survey to Law Council constituent bodies throughout Australia, to large law firm groups and key government agencies. The body of the introduction to the survey referred to the purpose of the research but also made clear: 'The study aims to improve understanding about the respective experiences and motivations of male and female legal practitioners as they progress through their careers, and to improve understanding of the reasons why lawyers choose to leave the legal profession or choose a different career path.'¹² Of the total 3,801 responding to the online survey, only 1,064 (28%) were male.

It may be that males are simply not motivated to fill out surveys. However, the gender breakdown in our survey results is much starker than the two other surveys referred to above, where between a quarter and a third of respondents were male. Our survey generated a mere 10% response rate from males. One possible, slightly depressing, explanation is that male lawyers reading the invitation saw the subject matter of the survey and assumed that because women are the highest users of part-time and flexible working practices, this was a survey about a women's matter or a women's responsibility. Further, it may be that the involvement and early mention of the Canterbury Women's Legal Association in the invitations reinforced any inclination of males to assume the study was irrelevant to them.

We have therefore concluded that no comparative gender analysis can be carried out using our results because the male response was so small. If lack of male response to our survey indicates lack of male interest and involvement in promoting and supporting part-time and flexible work practices, this would present a significant barrier to effective adoption and support for such ways of working in a profession that is still dominated by males at a senior level.

2 *Age*

Most participants fell within the 40 – 49 year age range. Their average age was 45 years,¹³ which is slightly higher than the 41.4 average age of all New Zealand lawyers.¹⁴

3 *Relationship status*

The majority of participants identified as being married or in a Civil Union (65%).

¹² LCA NARs Report, Appendix A, Survey Instruments, 100.

¹³ One participant chose not to answer this question.

¹⁴ G Adlam "Snapshot of the profession" (2016) 883 *LawTalk* 17.

4 *Ethnicity*

Participants were asked to choose all of the possible ethnicities with which they identified. A majority of 89% identified as European or New Zealand European. Nearly 10% identified as New Zealand European Māori.¹⁵

5 *Total Household Income*

Just under half of all participants contributed between 40-59% of their total household income.

6 *Workplace location*

A clear majority of participants worked in Christchurch, with very small numbers working in other locations in the Canterbury/Westland region.

7 *Practice areas*

Participants were either practising lawyers or legal executives.¹⁶ Over a third were solicitors or senior solicitors, while 21% were legal executives.¹⁷

8 *Nature of employment and working arrangements*

One hundred and twelve of the employee participants (96% of those responding to this question) were working on a permanent contract, one worked on a casual basis, and three were on a temporary contract, and two did not respond.¹⁸ Figure 1 is shown below rather than in Appendix One because it illustrates the distribution of part-time and flexible work arrangements identified by the different *employees* in the survey.¹⁹ It is apparent that for the largest cohort groups, solicitors and legal executives, informal flexible working arrangements were more popular than formal. Additionally, legal executives used part-time arrangements more than solicitors (even when senior solicitors are added to the latter).

¹⁵ No opportunity was provided add “other” ethnicities, so ethnic affiliations beyond those listed in Figure 4 are unknown.

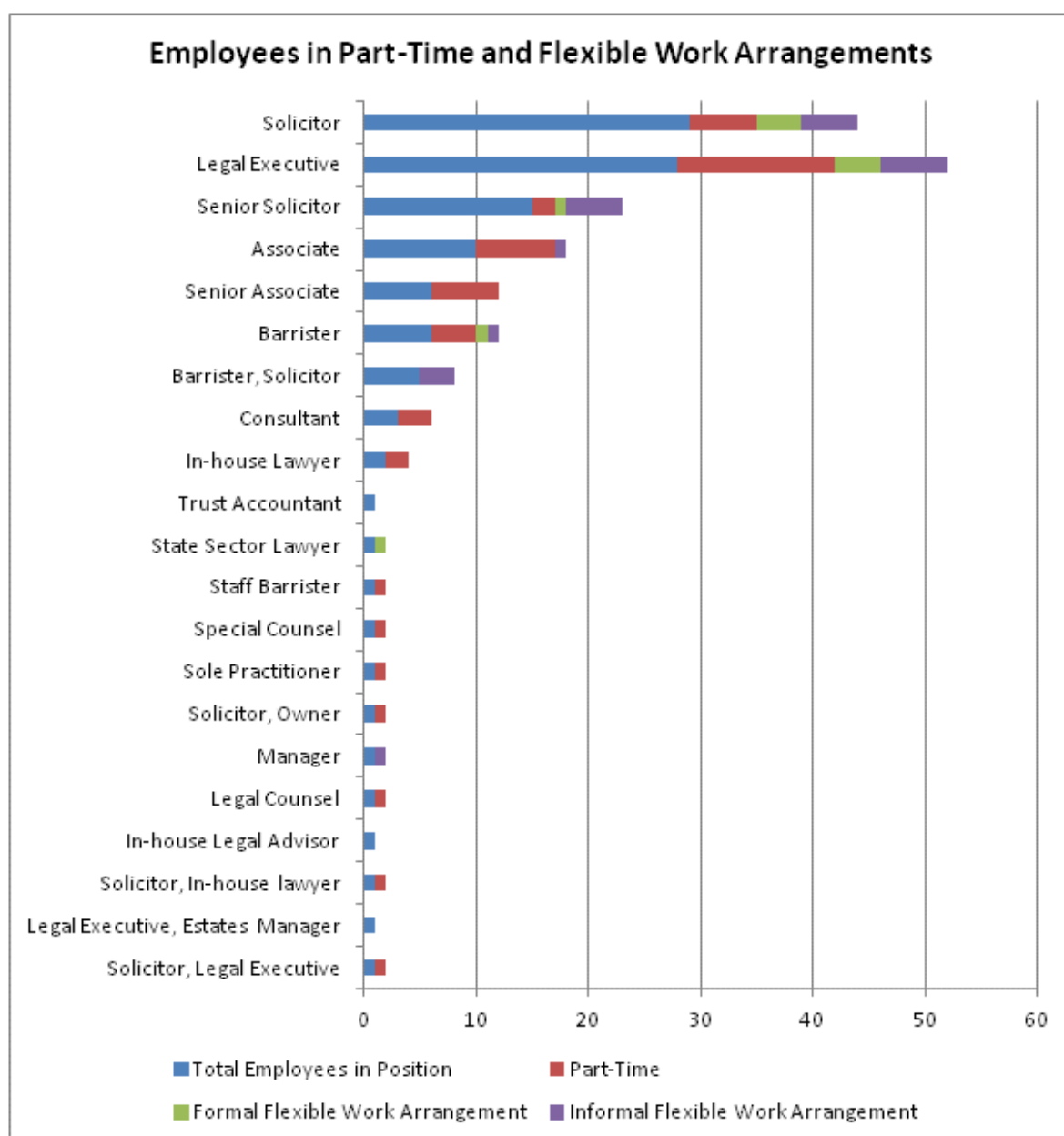
¹⁶ For this question, participants were asked to tick all categories that applied. Three participants were neither lawyers nor legal executives and are not included in the data analysis.

¹⁷ Employers were not asked to provide information regarding their work roles.

¹⁸ Only employees responded to this question.

¹⁹ Participants could choose part-time *and* flexible work arrangements if appropriate.

Figure 1: Nature of Employment and Working Arrangements



While not apparent from Figure 1, it is interesting to note that of the twenty *employers* in the survey, seven worked part-time and thirteen had a flexible work arrangement. Notably, all seven of the part-time employers also noted they had a flexible work arrangement, although whether these were formal or informal work arrangements could not be learned from the data.

B Full-time Employees with a Flexible Work Arrangement

Just over half of the 66 employees (both lawyers and legal executives) who were working full-time also worked under a flexible working arrangement. A majority of these (88%) were women. A detailed analysis of the responses from this group is set out in Appendix Two.

Just under two thirds of employees with flexible arrangements reported that they were informal in nature. Consistent with this, only one reported relying on Part 6AA of the *Employment Relations Act 2000* when requesting a flexible working arrangement. The majority had either not relied on the legislation or considered it irrelevant.

The most frequently given reason for working under a flexible working arrangement was a desire to achieve a work-life balance, closely followed by having a responsibility as a carer for others. For many, these reasons were borne out by their actual experiences, with a majority agreeing that their arrangement had helped them to balance both family and non-family life commitments. The given reasons for working flexibly also reflect a desire expressed by a majority of those with a flexible arrangement to reduce the hours they worked per week, which many achieved. Employees with flexible arrangements worked an average of 34.7 hours per week.

Many participants used more than one type of flexible arrangement, with the most common arrangements being alterations to start and finish times and time off in compensation for overtime. A majority were positive about the outcome of their arrangement and did not view it as having impacted negatively on the type of work they were given or on their career path and opportunities for promotion. Interestingly, a majority indicated that they disagreed with the proposition that they would not be able to do paid work at all if they did not have a flexible working arrangement. However, a majority were unsure about whether they were being paid the same when compared to other employees at the same level who were not working under a flexible arrangement.

C Employees with a Part-time Work Arrangement

Fifty two of employees (both lawyers and legal executives) who participated in the study were working part-time (44% of all employees). A detailed analysis of the responses of part-time employees is set out in Appendix Three.

A majority were working part-time on a permanent basis. A majority had moved in their current role from full-time to part-time work. As was the case with employees with a flexible working arrangement, a majority had not based their request to work part-time on supporting legislative provisions.

The most frequently given reasons for working part-time were the same as those given by employees for working under a flexible work arrangement, but the order in which they appeared was reversed. Responsibility as a carer for others was the most frequently selected reason by a large margin, followed by a desire to achieve a work-life balance. As was the case with employees working under a flexible work arrangement, a majority agreed that working part-time had allowed them to balance both their family and non-family life commitments.

Although a majority of part-time employees were of the view that their working arrangement had worked as intended, they were more likely than employees working under a flexible work arrangement to agree with statements to the effect that the arrangement had negatively impacted their ability to attend networking events, the type of work they were given and their career and/or promotion opportunities. Interestingly, part-time employees considered their

colleagues to be more supportive of their arrangement than their clients. Again, as was the case with those working under a flexible work arrangement, a majority indicated they would still be able to do paid work if they did not work part-time.

D Full-time Employees with neither Part-time nor Flexible Work Arrangements

We were also interested in the views of full-time employees on flexible and part-time work. However, less than one third of the survey participants (32 participants) were working on a full-time basis. All except one of these were women. A detailed analysis of the responses of this group is set out in Appendix Four.

Full-time employee participants confirmed that communication about the availability of flexible or part time working arrangements in their workplaces was primarily ad hoc, done on a case by case basis or not done at all. The reasons why full-time employees did not have a flexible or part-time work arrangement included the requirements and expectations of their role, a perception that it was unlikely their employer would approve the request, and negative consequences for status and career progression opportunities. Additional reasons given for not working part-time included lack of interest in working part-time, and an expectation that it would result in feeling disconnected from the workplace.

Full-time employees had similar attitudes to both flexible and part-time work with one exception, which was that they appeared to be more negative about their ability to work on a flexible basis with their current employer than they were about their ability to work part-time.

E Lawyers and Legal Executives: A Comparison

In a number of areas, there was a notable difference between the experience and perspectives of lawyers and legal executives. A detailed analysis of these differences is set out in Appendix Five.

A greater proportion of legal executives than lawyers had a flexible work arrangement, and a higher proportion of legal executives' flexible work arrangements were formal rather than informal. Lawyers and legal executives also differed somewhat in their reasons for having a flexible work arrangement. For lawyers, the most common reason was because of responsibilities as a carer followed by a desire to achieve a work-life balance; for legal executives, these reasons were reversed.

In relation to part-time work arrangements, lawyers and legal executives had similar reasons for working part-time (carer responsibilities followed by work-life balance). Their responses differed however in relation to their overall part-time experience, with legal executives experiencing fewer negative effects of working part time than lawyers. Interestingly, in terms of future career plans, over half of lawyers (56%) intended to practice law for the rest of their working lives whereas over two-thirds (69%) of legal executives were intending to remain in their careers for the rest of their working lives – suggesting a higher level of career satisfaction amongst legal executives.

Although not suggested by the survey responses, it is possible to speculate as to some of the reasons for the differing experiences of lawyers and legal executives. Some of the differences perhaps reflect the different age demographic for legal executives and lawyers (the average age of legal executives was 45.7 years and the average age of lawyers was 38.4 years). Other differences might be explained by the different nature of the work tasks performed by lawyers and legal executives, and perhaps an expectation that lawyers are on a (competitive) career path towards partnership, whereas legal executives are less susceptible to pressures related to career advancement.

F Employees in Prime Child Caregiving Age

The views of employees in the prime child caregiving age range (24-49) were analysed separately given that employees in this age range are more likely to seek flexible or part-time work arrangements. A detailed analysis of responses is set out in Appendix Six.

Over three-quarters of the survey participants (78%) were in this group, with 95% of these participants being women, and five % being men. A large majority of these participants had taken one or more career breaks. Three-quarters of this group (76%) had a flexible or part-time working arrangement. Yet, a significant minority (40%) said it was not easy to work flexibly at a senior level and 20% considered it was not easy to work part-time at a senior level.

The views of employees in the prime child caregiving age range who worked part-time were similar to those in the larger subset of all part-time participants (see above). A significant number (96%) indicated that working part-time helped them balance their family and non-family life commitments. A significant number also indicated that employers and colleagues were supportive of their part-time arrangement, with clients perceived to be slightly less so. Over two-thirds of participants indicated that working part-time had negatively impacted on their ability to attend networking events with clients or colleagues.

The views of employees in the prime child caregiving age range who had a flexible work arrangement were similar to those in the larger subset of participants with flexible working arrangements (see above). A majority indicated that they worked flexibly because of their carer responsibilities. Many participants combined more than one type of flexible work arrangement, such as the ability to choose start and finish time, and the ability to take time off in compensation for over-time. A significant number also indicated that employers and colleagues were supportive of their flexible work arrangement. Notably however, these participants were much less certain of whether clients were supportive of their flexible work arrangement. In contrast to part-time participants, participants with a flexible work arrangement in the prime care-giving age reported fewer negative impacts on their career.

G Employers

Although employer participation in the survey was expressly sought, the response rate for employers was low, with only 20 employer participants. A detailed analysis of employer responses is set out in Appendix Seven.

Within the employer subset, and notably distinct from the participant group as a whole, the gender split was almost equal. Interestingly all of the employer participants had their own part-time and/or flexible work arrangement. Probably because of this circumstance, many of the employer perspectives appeared to be in light of the participant's own individual experience and circumstances, rather than an employer perspective as such.

Employers were asked to identify benefits and drawbacks to employers of part-time and flexible working arrangements. Benefits identified included increased efficiency and engagement, happier staff and a happier workplace, increased ability to retain good staff, and work satisfaction for employees involved. Drawbacks of part-time and flexible working arrangements included employees being unavailable for clients and unable to meet client expectations, delays in getting work done, double handling of a file to cover the absence of the part-time or flexible worker, and the cost to the business in terms of not getting the full value out of office space and infrastructure. There was a range of employer views across the spectrum as to how well part-time or flexible arrangements worked in practice. Although 45% were of the view that arrangements worked well or very well, 20% thought it depended on the individuals involved, and 10% were of the view that they did not work well in an industry that services client demand.

Employers confirmed the views of other participants that communication with employees about part-time and flexible work arrangements was mostly ad hoc, and done on a case-by-case basis, with just one employer indicating that they had a formal policy in place. Employers diverged sharply in their views on the career prospects of employees with part-time or flexible working arrangements. Forty-five per cent said a part-time or flexible working arrangement had some or significant impact on an individual's career prospects; while 35 % said there was no impact. Finally, employers were asked whether the Canterbury earthquakes had altered their approach to part-time or flexible working arrangements. Although 40% of employers indicated that there had been no change, 25% indicated that they were more receptive to part-time and flexible working arrangements, with the remainder indicating some adjustments had resulted.

H Key Trends

The first and overall trend is that participants were largely employees with permanent work arrangements. The second is that a clear majority of employees with flexible and part-time work arrangements would continue in paid employment if their arrangement did not exist.

The most commonly given reasons for working part-time for lawyers and legal executives was care-giver responsibilities. This was also the most common reason for lawyers to work flexibly. For legal executives, the most common reason for having a flexible work arrangement was to achieve a work-life balance.

1 Flexible work arrangements

Most flexible working arrangements were informal in nature and most employees had not based their request to work flexibly on supporting legislation. A majority of employers indicated they knew little about legislation relevant to flexible and part-time work

arrangements. Both employees without a part-time or flexible working arrangement and employers indicated that formal workplace policies about flexible work rarely existed. Participants indicated that most arrangements resulted from employees making an individual request to their employers.

A majority of employees without an existing arrangement were of the view that a working a flexible number of hours was not a possibility with their current employer.

A clear majority of those with a flexible work arrangement indicated that it had worked as intended. A majority of employers also indicated that such arrangements worked well or very well. However, there was a divergence of views regarding the impact of such arrangements on employees' career paths and/or progression. A majority of those with a flexible work arrangement did not perceive that it had had a negative impact. Employers were more likely than not to assess a flexible working arrangement as having some impact on employees' career prospects. However, this particular question was directed at both part-time and flexible arrangements so it is unclear whether employer responses were also directed at both types of arrangement. There was also divergence on how such arrangements were viewed by others. A clear majority with an existing flexible work arrangement indicated that their employer and colleagues were supportive of the arrangement, but were less sure that their clients were supportive. Those without a flexible work arrangement were more equivocal on the issue of employer and colleague support.

2 *Part-time Work Arrangements*

As was the case with flexible work arrangements, there was little indication that policies on part-time work are widespread in the workplace.

A small minority of part-time employees had been refused the option to work part-time and over half of those without an existing flexible or part-time work arrangement did not think that their employer would in future approve a request to work part-time.

As was the case with flexible work arrangements, a majority of both those working part-time and employers thought part-time arrangements had worked as intended. Over half of lawyers working part-time assessed having done so as having a negative impact on their career path and/or progression, but the opposite was the case for part-time legal executives. A majority of employers assessed part-time work as having a negative effect (but were not asked to distinguish between employees who were lawyers and legal execs, nor between those with part-time and flexible arrangements). There was little divergence on how part-time working arrangements are perceived by others, but lawyer employees not working part-time were more likely than non-part-time legal executives to disagree with the proposition that colleagues react negatively to part-timers. A majority of part-time lawyers and legal executives viewed their colleagues and clients as being supportive of the arrangement.

IV Discussion

A Background

This project appears to confirm the trends identified in the general scholarship on flexible and part-time work arrangements. Women who undertake paid employment still continue to do most of the unpaid care as part of raising children.²⁰ The survey results suggest this also applies in the legal profession in Canterbury. Most flexible or part-time workers are women who need or choose to accommodate their care obligation with their working life. Women with childcare responsibilities may choose or may be forced to participate in temporary work because of the flexibility it appears to offer as a method of resolving the conflict.²¹ This was borne out by this study where the most commonly given reason for working part-time for lawyers and legal executives was care-giver responsibilities. This was also the most common reason for lawyers to work flexibly, although for legal executives the most common reason for working flexibly was to achieve a work-life balance.

The question of whether one chooses or one is forced to work part-time or flexibly was touched upon by our study. Many respondents said they would manage somehow if they did not have the option to work flexibly or part-time. However, the question of autonomous choice must be approached with caution. On the one hand, some researchers have shown that mothers in particular work if they can also have family time.²² Arguably then, women are more likely than men to use flexible work or part-time work in order to accommodate their family and care commitments.²³ On the other hand, women may also be more likely than men to choose to work in such a way in order to escape family commitment,²⁴ and specifically to escape the stress and/or boredom of family life.²⁵ Both may be motivations for seeking part time work or flexible work practices.

Choices are also conditioned by structural factors: unhelpful partners, unresponsive employers, demanding clients and rigid career path, all shape and constrain choices.²⁶ Family structures also impact women's form of work: a partner who works long hours increases the chance that a woman will either stop working or will take part-time work.²⁷ Equally, professionals and managers frequently contribute to pushing women out of the workplace

²⁰ Flynn and Harris, above n 2; King, above n 3, 115; World Economic Forum *Global Gender Gap Report 2013* available at http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf; Equality and Human Rights Commission *Working Better: Fathers, Family and Work - Contemporary Perspectives* (UK, 2009).

²¹ C Connelly and D Gallagher *Emerging Trends in Contingent Work Research* (2004) 30 *Journal of Management* 959 at 968.

²² K Nomaguchi, M Milkie and Suzanne Bianchi "Time Strains and Psychological Well-Being: Do Dual-Earner Mothers and Fathers Differ?" (2005) 26 *Journal of Family* 756.

²³ A Masselot "Gender Implications of the Right to Request Flexible Working Arrangements: Raising Pigs and Children in New Zealand" (2015) 39 *New Zealand Journal of Employment Relations* 59.

²⁴ D Clawson and N Gerstel *Unequal Time: Gender, Class, and Family in Employment Schedules* (Russell Sage Foundation Press, New York, 2014); N Gerstel and D Clawson "Inequality in work time: Gender and class stratify hours and schedules, flexibility, and unpredictability in jobs and families" (2015) 9 *Sociology Compass* 1094.

²⁵ A Hochschild "Reply: A Dream Test of the Time Bind" (2002) 83 *Social Science Quarterly* 921.

²⁶ P Stone *Opting Out?: Why Women Really Quit Careers and Head Home* (University of California Press, Berkeley, 2007).

²⁷ Y Cha "Reinforcing Separate Spheres: The Effect of Spousal Overwork on Men's and Women's Employment in Dual-Earner Households" (2010) 75 *American Sociological Review* 303.

while at the same time pulling men in, by shaping a work culture of long inflexible work hours, indirectly prioritising men's careers over women's careers in dual earner families.²⁸

Although, as found in our study, women often ignore or deny the existence of these structures by using the rhetoric of choice, the reality is that work culture and societal culture more generally impact strongly on the ability to make unbiased choices.²⁹ When individuals have autonomy over their working hours, they typically do it in a way that is gendered: women choose to work part-time/flexi time to accommodate their care obligations as well as to respond to the dominant traditional gender stereotypical organisation of work and family. In contrast, men tend to choose to work long hours, to comply with the gender stereotypical culture, relying at the same time on their wives (or female partners) in order to work these long hours and to prioritise their careers.³⁰

Thus, the choices made by individuals have to be considered in the structural context in which they are exercised.³¹ In our study for instance, a small minority of employees with an existing arrangement had been refused a flexible working arrangement, but a majority of those without an existing arrangement were of the opinion that working a flexible number of hours was not a possibility with their current employer. They assessed that the structure would not let them work flexibly and therefore "chose" not to request flexible working arrangements.

B Informal Nature of most Flexible Working Arrangements

1 Lack of Knowledge of the Right to Request a Flexible Work Arrangement

Flexibility is very high on the New Zealand agenda: New Zealand has taken some positive steps towards achieving work-family reconciliation. Employees (including temporary and other non-standard workers) have a statutory right to request flexibility. This is covered by Part 6AA of the *Employment Relations Act 2000* (as inserted by the *Employment Relations Amendment (Flexible Working Agreements) Act 2007* and amended by the *Employment Relations Amendment Act 2014*), which provides for the right to request flexible work arrangements. Part 6AA, which came into force in July 2008, initially applied only to employees who had care responsibilities; thus representing a symbolic yet powerful acknowledgment of employees' care commitments.³² The right to request flexible work was extended to all employees in 2015, therefore losing symbolic meaning.³³

²⁸ Ibid; M Thornton "Work/life or work/work? Corporate legal practice in the twenty first century" (2016) 23 *International Journal of the Legal Profession* 13.

²⁹ Gerstel and Clawson 2015, above n 24; E Caracciolo Di Torella and A Masselot "Work and Family Life Balance in the EU law and policy 40 years on: still balancing, still struggling" (2013) 2 *European Gender Equality Law Review* 6.

³⁰ Thornton, above n 28; Clawson and Gerstel 2014, above n 24; D Hofäcker, and S König, "Flexibility and work-life conflict in time of crisis: a gender perspective" (2013) 33 *International Journal of Sociology and Social Policy* 613.

³¹ Ibid.

³² Masselot, above n 23.

³³ Ibid.

Many employees work flexibly in New Zealand. The Department of Labour reported that in 2011, 70% of employers said that some or all of their employees worked flexibly.³⁴ Among current employees, 43% reported that they have made a request for a flexible work arrangement to their employer and large majority of these requests were approved.³⁵ However, the Department of Labour reported that requests were not necessarily based on the statutory rights. This fits with the findings of our study, which show that most flexible work arrangements were informal in nature and most employees had not based their request to work flexibly on supporting legislation.

The reasons why most employees in the legal profession did not base their requests to work flexibly on the supporting legislation are not clear from the study. When employers were asked this point directly, a majority indicated they knew little about the relevant legislation. Other studies have revealed that workers have in general very low level knowledge of the legislation and their rights.³⁶ It may be that more education of employees and employers is required to raise awareness of these provisions, along with workplace specific policies around implementation.

However, even where employees are aware of the legislation, it is possible that they perceive themselves as more likely to receive a favourable response to a request without invoking the legislation specifically. Reference to legislation may sometimes be negatively perceived by employers. Research by the Families Commission in 2008 suggested that employees may use informal flexible work arrangements to test employers' reactions to such requests rather than making a formal request.³⁷

2 *Weakness of the Legal Provision on the Right to Request Flexible Work Arrangements*

The weaknesses of the statutory right arguably explain further the reasons why this formal right is seldom used.

(a) A mere right to request

The statutory right only confers a right to request. It has been argued that the right to request a flexible work arrangement is mainly symbolic because in reality employees have always had the right to negotiate and renegotiate the terms of their contract of employment.³⁸ Thus, there is little added value in the statutory right.

³⁴ Department of Labour *Review of Flexible Working Arrangements in New Zealand Workplaces* (Wellington, (2011).

³⁵ Ibid.

³⁶ Ibid; New Zealand Council of Trade Unions *Under Pressure: A Detailed Report into Insecure Work in New Zealand*, (NZCTU, Wellington, 2013) available at <http://www.union.org.nz/wp-content/uploads/2016/12/CTU-Under-Pressure-Detailed-Report-2.pdf>.

³⁷ Heathrose Research Ltd "Flexible Work Arrangements Literature Review: Report to the National Advisory Council on the Employment of Women" (undated) at 23.

³⁸ A Reilly and A Masselot "A Precarious Work and Work-Family Reconciliation: A critical evaluation of New Zealand's regulatory framework, Work Life Balance" in R Blanpain and F Hendricks (eds) *Work Life Balance, Labour Law and Labour Relations* (Kluwers Law International, 2017).

In addition, the right to request a flexible work arrangement pays lip service to the idea of work/family reconciliation, while in reality the dominant focus remains on work productivity.³⁹ Although under the legislation the employer has the obligation to consider seriously the request for flexible working arrangement, such a request can easily be refused as this obligation is weak. The law only provides for a right to a fair and timely consideration of a request, rather than a right to flexibility.

(b) Right to refuse is superior to right to request

An employer may refuse the request by providing explanations as to the (business related) reasons for the refusal.⁴⁰ The fact that employers are able to decline on business grounds demonstrates the continuing paramountcy of the employer's needs as opposed to the employee's needs for work-family reconciliation.⁴¹ Ravenswood has commented that work-family balance mechanisms are still primarily motivated by the business case within a liberal paradigm and they do not go far enough in recognising the value of care work.⁴² Not only is there no right to a flexible work arrangement (only a right to request), but where employers refuse a request on business related grounds, it is difficult, if not impossible, for employees to challenge such decision. The law does not empower employees to challenge the reasons put forward by the employer, it only allows employees to challenge employers who do not deal with the request in accordance with the specified process. In this case, the matter can be referred to a Labour Inspector, then to mediation, and then only to the court system (the Employment Relations Authority).

(c) Poor sanctions

Even if an employee has the courage and energy to contest an employer's refusal, the penalty is paltry. Under s 69AAJ, an employer who does not comply with the process of considering seriously a request for flexible working arrangement is liable to a penalty not exceeding \$2,000. Such an amount is so insignificant and token that it cannot be considered a viable deterrent to most employers. In addition, the remedy is ill-adapted to the aim of the provision, as the need for flexibility cannot be met by a monetary penalty.⁴³ Therefore the statutory right to request a flexible working arrangement is inefficient because the sanction for breach of the right is weak and inadequate. There is, to date, no reported case law on this statutory provision.

C The Value of Flexible and Part-time Work

Flexibility is an ambiguous concept which can potentially impact positively but also negatively on work-family conflicts.⁴⁴ Indeed, the concept of work flexibility can be interpreted as a tool for employers to adapt quickly to a competitive globalised market or as an instrument to

³⁹ Ibid; Thornton, above n 28; S Bornstein "The legal and policy implications of the "flexibility stigma" (2013) 69 Journal of Social Issues 389.

⁴⁰ *Employment Relations Act 2000*, s 69AAF.

⁴¹ Reilly and Masselot, above n 38.

⁴² K Ravenswood "The role of the State in family-friendly policy: an analysis of Labour led government policy" (2008) 33 New Zealand Journal of Employment Relations 34.

⁴³ Ibid.

⁴⁴ Caracciolo di Torella and Masselot, above n 29.

enhance the reconciliation between work and family life or contribute to general work-life balance. While a number of researchers have pointed out how flexibility can help to resolve work-life conflicts,⁴⁵ others have highlighted that employers can benefit greatly from this concept at the expense of employees.⁴⁶ It has been argued that when flexibility is used as a tool for employers to enhance business in an increasingly globalised market, it leads to less predictability and discretion and an increase in irregularity of work hours, which in turn lead to lower income and higher insecurity for workers.⁴⁷ Consequently this may increase work-life conflicts for employees. Conversely, in the context of an increasing female employment rate and the overall evolution of gender norms, certain forms of “family-friendly” flexible arrangements are seen as helping women integrate into the employment market by reducing their work-family conflicts.

1 *The Gendered Aspect of Flexible Work Arrangements and the Value Associated with Flexible Working Time*

The concept of flexibility is not gender-free. The work of Hofäcker and König is particularly useful to shed light on the gender impact of the concept of flexibility.⁴⁸ The number of working hours does impact on employees’ work-life balance. When flexibility facilitates *volume of work* as an outcome, long working hours conflict with family life.⁴⁹ For example, overtime work has been demonstrated to impact negatively on individuals’ perception of their work-life balance.⁵⁰ Moreover, the negative impact of overtime increases when imposed by the employer⁵¹ rather than when it results from personal choice.⁵² Irregular and unpredictable working hours, regardless of the number of working hours, impact even more negatively on the work-family life of both men and women equally.⁵³

Workers’ level of control over their working hours is important in mitigating work-family conflicts but the autonomy to choose one’s working time is used differently by each gender.⁵⁴ Women tend to use this control to achieve better work-life balance by requesting to work part-time or to job-share. This is overwhelmingly confirmed in the New Zealand context,

⁴⁵ Yeandle, above n 2; La Valle et al, above n 2; Rubery and Tarling, above n 2.

⁴⁶ A Goodswaard and M Nanteuil *Flexibility and Working Conditions: A Qualitative and Comparative Study in Seven EU Member States* (European Foundation for the Improvement of Living and Working Conditions, Dublin, 2000).

⁴⁷ Hofäcker and König above n 30.

⁴⁸ Ibid.

⁴⁹ J Jacobs and K Gerson *The Time Divide: Work, Family and Gender Inequalities* (Harvard University Press, Cambridge, 2004).

⁵⁰ Eurofound *Fifth European Working Conditions Survey – Overview Report* (European Foundation for the Improvement of Living Standards and Working Conditions, Dublin, 2012); M Van der Hulst and S Geurts “Association between overtime and psychological health in high and low reward jobs” (2001) 15 *Work Stress* 227.

⁵¹ P Tucker and C Rutherford “Moderators of the relationship between long work hours and health” (2005) 10 *Journal of Occupational and Health Psychology* 465.

⁵² G Porter “Work, work ethic and work excess” (2004) 17 *Journal of Organizational Change and Management* 424; L Fursman *Working Long Hours in New Zealand: A Profile of Long Hours Workers Using Data from the 2006 Census* (Department of Labour, Wellington, 2008); L Fursman and N Zodgekar “Making It Work: The Impacts Of Flexible Working Arrangements On New Zealand Families” (2009) 35 *Social Policy Journal of New Zealand* 43 at 51.

⁵³ Hofäcker and König, above n 30.

⁵⁴ Ibid.

where women are more likely than men to have access to arrangements that involve a reduction in hours and income.⁵⁵ Women are more likely to report access to part-time work (68% of women and only 44% of men), and job-sharing (48% of women against only 34% of men).⁵⁶ Research by the Ministry of Women's Affairs reveals that nearly three quarters (72.4%) of part-time employees are women,⁵⁷ while only 42% of full-time employees are women.⁵⁸ These findings are confirmed by the work of the Families Commission, which found that 32% of New Zealand women who were in paid employment reported that they worked 20 or fewer hours per week, compared with just 2% of men working as little.⁵⁹ The research further revealed that women were more likely to agree with statements that involved putting family needs before personal or work responsibilities.⁶⁰

Conversely, men tend to use flexible arrangements to increase their work commitments. In particular men tend to make use of flexi-breaks and work from home. This results in increasing work-family conflicts for men.⁶¹

Additionally, the types of flexible working arrangements which are made available by employers appear to greatly differ depending on whether the employees are male or female. Not only do men and women "choose" different types of flexible working arrangement (part-time and job share for women in contrast to flexible and working from home for men) but the type of flexible work offered by employers to men is largely different to that offered to women. Men and women differ in what they report as being generally available to them at their workplace in terms of flexibility. Men are considerably more likely to have access to flexible breaks (71% of men against only 64% of women).⁶² Men are also more likely to be offered the option to regularly work from another location, including home (28% of men against only 20% of women).⁶³ Consistent with the finding that men are more likely than women to have flexible hours, fathers with a child or children under 14 years living in the household are reported also to be more likely to have flexible hours than mothers with a child under 14 years in the household.⁶⁴

Flexibility is therefore not a gender-free concept, nor is it applied as such in practice. Flexibility contributes to societal gender structures. Flexible working arrangements are used differently by men and women, and so not only reflects traditional gender roles but also entrench gender-segregated labour market structures.

⁵⁵ Flynn and Harris, above n 1.

⁵⁶ Department of Labour *Work-Life Balance in New Zealand: A Snapshot of Employee and Employer Attitudes and Experiences* (Wellington, 2008).

⁵⁷ Ministry of Women's Affairs *Mothers' Labour Force Participation* (Wellington, 2009).

⁵⁸ Department of Labour *Review of Part 6AA: Flexible Working Arrangements* (Wellington, 2012).

⁵⁹ Families Commission *Give and Take: Families' Perceptions and Experiences of Flexible Work in New Zealand* (Wellington, 2008).

⁶⁰ Ibid.

⁶¹ Hofäcker and König, above n 30.

⁶² Department of Labour, above n 56.

⁶³ Ibid.

⁶⁴ Department of Labour, above n 58.

2 *Different Perceptions of Part-time and Flexible Work Arrangements*

It follows from the above that the perception and the value of flexible working time will likely differ according to the type of flexible working time: flexi-time, more used by men, is likely to be more valued than part-time which is perceived to be associated with female work. Part-time workers are considered to be incompetent and not committed.⁶⁵ Working from home is viewed suspiciously, especially when done by women who have childcare obligations because real work has to be done from work, only wives stay home.⁶⁶ Our study results demonstrated consistency with this view, revealing slightly different perceptions of part-time and flexible working arrangements in Canterbury legal practice. Flexible work practices were less likely to be seen as having significant negative effects on legal careers whereas part-time work practices were perceived as having a negative impact on legal careers. For example, when asked whether it was easy to work part-time or with a flexible work arrangement at a senior level, 73% of respondents answered “no” in relation to part-time but only 56% answered “no” in relation to flexible working arrangements.

D The Lack of Proactive Measures by Law Firms

Work-life balance legislation is underpinned by a neutral approach to the employer/employee relationship and a deconstruction of the traditional public/private dichotomy.⁶⁷ Employers and employees are treated as individuals who have to negotiate their own unique relationship on a case-by-case basis, ignoring the social milieu and environment that actively shape the terms of employment choices. This presumption of endless choice prevails in almost all professions, including the legal profession, although the reality of the labour market (in particular for women) in fact presents only a restricted set of options.⁶⁸ This therefore puts added pressure on mothers or employees with care responsibilities. It means that for employees with care-giving obligations, it can be difficult and challenging to remain or to thrive in the paid labour market. Because of women’s growing responsibilities in the labour force, unpaid care work in the private sphere has also become more difficult for individuals to navigate. The reconciliation of employment and private care-giving work is therefore arguably in need of legal intervention and guidance,⁶⁹ but also most importantly, it is in need of active intervention from employers. Our study provides little indication that policies on part-time work are widespread in the legal workplace. Moreover, employers and employees without a part-time or flexible work arrangement indicated that formal workplace policies about flexible work rarely existed. Participants indicated that most arrangements had resulted from employees raising the issue on an individual basis with their employers. Indeed, employers in general have been shown to be reactive rather than proactive in the area of work-life reconciliation.⁷⁰

⁶⁵ Thornton, above n 28; Bornstein, above n 39.

⁶⁶ Thornton, above n 28.

⁶⁷ On the public/private divide, see: Caracciolo di Torella and Masselot, above n 29.

⁶⁸ R McManus “Work-Life Balance: A Case of Technical Disempowerment?” (2009) 16 Social Politics: International Studies in Gender, State and Society 111 at 125.

⁶⁹ A Masselot “The Rights and Realities of Balancing Work and Family Life in NZ” in G James and N Busby (eds) *Families, Care-Giving and Paid Work* (Edward Elgar, Cheltenham, 2011).

⁷⁰ V Brescoll, J Glass and A Sedlovskaya “Ask and ye shall receive? The dynamics of employer provided flexible work options and the need for public policy” (2013) 69 Journal of Social Issues 367.

In our study a majority of part-time employees had been previously refused the option to work part-time, but over half of those without part-time/flexi-arrangements did not think their employer would approve a future request to work part-time. This reflects the performance requirements in law firms where long working hours have become the norm,⁷¹ and working flexibly or part-time is still regarded as “time deviant”.⁷²

E *The Reality of Legal Practice*

It has been reported that there are competing discourses in the legal profession: on the one hand, long hours are valued, but on the other, law firms have started to embrace the idea of work-life balance. The latter, however, often simply translates into long hours outside the workplace.⁷³ Even where the concept of flexibility is valued in law firms, it can be driven by reliance on technology and therefore long hours, and this is a concern for the future of legal practice.⁷⁴ Arguably, the most genuinely flexible law firms are small firms which have been untouched by the neoliberalisation of the legal profession, which shapes a culture of competition, power and aggression.⁷⁵

Moreover, Thornton notes that “the perception of flexible work is positive on its face, but that there is too often a disjuncture between the rhetoric and the reality.”⁷⁶ As a result, a stigma is attached to flexible working arrangements, especially when the arrangement is about limiting the number of working hours.⁷⁷ Thus, although law firms might allow part-time work or flexible work arrangements if requested, the work culture does not permit adequate implementation of the arrangement,⁷⁸ nor does it normalise such practices. Moreover, there are claims that the bias against such working arrangements is directed mainly against women,⁷⁹ (although Thornton argues it is extended to men too).⁸⁰ Part-time and flexible work

⁷¹ I Bacik and E Drew “Struggling with juggling: gender and work/life balance in the legal professions” (2006) 29 Women’s Studies International Forum 136.

⁷² P Stone and L Hernandez “The all-or-nothing workplace: flexibility stigma and “opting out” among professional-managerial women” (2013) 69 Journal of Social Issues 235.

⁷³ Thornton, above n 28; M McLean “Closing the gender gap” [2014] Lawyers Weekly (Sydney), 16 October 2014. Available at: <http://www.lawyersweekly.com.au/careers/closing-the-gender-gap>;

H Sommerlad “Women solicitors in a fractured profession: intersections of gender and professionalism in England and Wales” (2002) 9 International Journal of the Legal Profession 213.

⁷⁴ D Haraway “A cyborg manifesto: science, technology, and socialist feminism in the late twentieth century” in D Haraway (ed) *Simians, Cyborgs and Women: The Reinvention of Nature* (Routledge, New York, 1991) 149; M Thornton “The flexible cyborg: work-life balance in Legal Practice” (2016) 38 Sydney Law Review 1.

⁷⁵ Law Council of Australia, *National Attrition and Re-engagement Study* (Law Council of Australia, Canberra, 2014); R Collier “Rethinking men and masculinities in the contemporary legal profession: the example of fatherhood, transnational business masculinities, and work-life balance in large law firms” (2012–2013) 13 Nevada Law Journal 410.

⁷⁶ Thornton, above n 28, at 24.

⁷⁷ J Williams, M Blair-Loy and J Berdahl “Cultural schemas, social class, and the flexibility stigma” (2013) 69 Journal of Social Issues 209.

⁷⁸ J Whealing “Out with the old” [2014] Lawyers Weekly (Sydney), 17 June. Available at: <http://www.lawyersweekly.com.au/news/out-with-the-old>, accessed.

⁷⁹ Law Council of Australia, above n 75; L Rudman and K Mescher “Penalizing men who request a family leave: is flexibility stigma a femininity stigma?” (2013) 69 Journal of Social Issues 322.

⁸⁰ Thornton, above n 28, at 25.

can be considered a feminine trait which attracts penalties.⁸¹ Men are correspondingly not attracted to such working arrangements, and they benefit from staying away from such forms of work.⁸² This may explain in part why so few men responded to our survey about these two types of work practices in the Canterbury legal profession.

V Where to from here?

To a degree it is reassuring that the reality of flexible and part-time work practices in the Canterbury legal profession reflects national and international themes and trends. To the extent that these themes and trends are negative in nature, as many are, highlights the degree to which they are entrenched as norms within the profession and the wider society that it serves. There is no clear and settled template for effecting change with proven effectiveness to which the legal profession can look for guidance. Nevertheless, a series of recommendations for ways to begin the process of changing the work culture of the profession are set out below.

A first recommendation is for the dissemination the results of this and similar studies to the profession. A change in working culture is very unlikely unless those in a position to encourage and effect change appreciate that there are problems and issues to be addressed.⁸³ Education should also focus on promoting the normalisation of realistic flexible and part-time work practices. The CWLA and other groups representing women in the profession have a key role to play in this respect.

A second recommendation is for the provision of a model for those in the profession who would like to effect positive change in terms of flexible and part-time work arrangements. This could be achieved by the Law Society, in conjunction with the CWLA and other groups representing women in the profession, providing training and suitable templates for employment policies and employment contracts. Such templates should be phrased in stronger terms than existing legislative provisions.

A third recommendation is to reward and publicise positive work practices. This could be achieved by national awards for law employers with the best work-life options and practises, as judged anonymously by those who use them. Such awards could be developed by the Law Society, again in conjunction with the CWLA and/or other groups representing women in the profession.

Other recommendations for changing the work culture of the profession emerge from the literature. They generally involve more radical change and, as a common theme, emphasise the desirability of quality work rather than longer work hours. Recommendations include:⁸⁴

⁸¹ Sommerlad, above n 74.

⁸² S Coltrane, E Miller, T DeHaan and L Steward "Fathers and the flexibility stigma" (2013) 69 Journal of Social Issues 279; J Vandello, V Hettinger, J Bosson and J Siddiqi "When equal isn't really equal: the masculine dilemma of seeking work flexibility" (2013) 69 Journal of Social Issues 303.

⁸³ See King, above n 3, at 230.

⁸⁴ Taylor, above n 4, at 54.

- Moving away from a billable hours business model;⁸⁵
- Adoption of fixed fee billing;⁸⁶
- Adoption of agreed guidelines limiting working hours with a view to improving the wellbeing of all employees;⁸⁷
- Adoption of an holistic approach to work-life reconciliation which encourages men and women to take time off for care-related needs.⁸⁸

We end with some of the specific recommendations made by the participants in this study. A first and common theme was the need for consistency between the terms of workplace policies on flexible and part-time work (where they exist) and actual workplace practices.

Finally, part-time employees, when asked what more their employers could do to support part-time work, generally focused on employers' providing a more supportive workplace. Specific suggestions offered were the provision of adequate working space, appropriate and consistent support from other staff and the setting of realistic workloads.

⁸⁵ King, above n 3, 209-211; J Whealing "Slaving away as a lawyer" [2013] Lawyers Weekly (Sydney), 27 March. Available at: <http://www.lawyersweekly.com.au/news/slaving-away-as-a-lawyer>.

⁸⁶ R Susskind *The End of Lawyers: Rethinking the Nature of Legal Services* (Oxford University Press, Oxford, 2008); R Susskind *Tomorrow's Lawyers* (Oxford University Press, Oxford, 2013).

⁸⁷ R Collier "Wellbeing in the legal profession: reflections on recent developments (or, what do we talk about, when we talk about wellbeing?)" (2015) 23 International Journal of the Legal Profession 41; R Collier "Love law, love life': neoliberalism, wellbeing and gender in the legal profession—the case of law school" (2014) 17 Legal Ethics 202.

⁸⁸ Caracciolo Di Torella and Masselot, above n 29.

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Appendix One

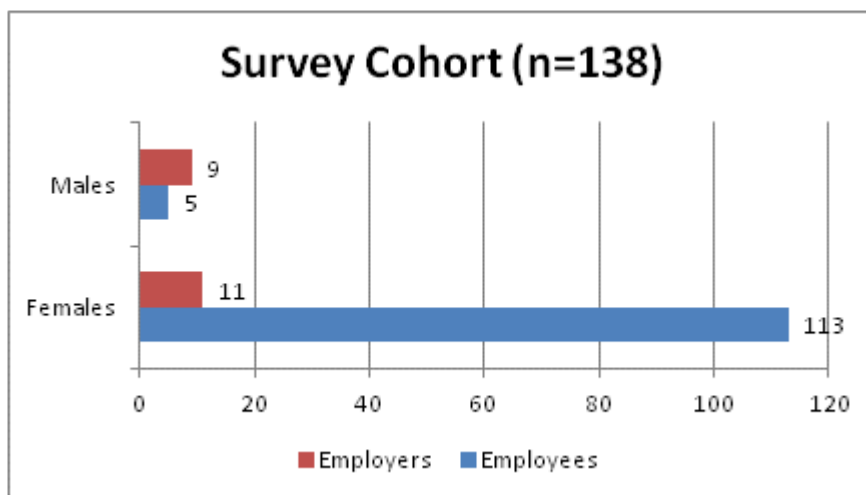
Description of Survey Cohort

The tables below provide a visual demographic snapshot of the 138 respondents to the survey.

1 Employee/Employer split

Figure 1 shows that employees comprise by the far majority of participants; only 20 participants identified as employers. Notably, over 90% of the participants were female, a response rate that does not reflect the 53% male to 47% female gender split for practising lawyers in Canterbury in 2015.⁸⁹

Figure 1: Survey Cohort



2 Age

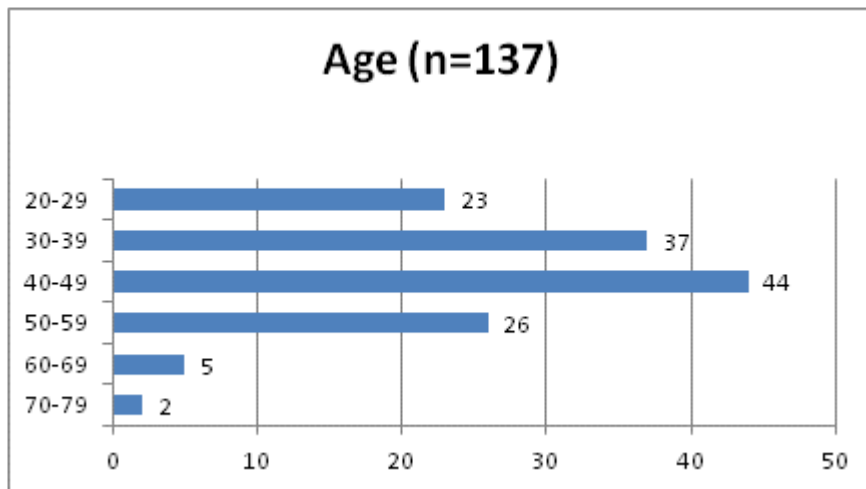
As illustrated in Figure 2 below, most participants fell within the 40 – 49 year age range. Their average age was 45 years,⁹⁰ which is slightly higher than the 41.4 average age of all New Zealand lawyers.⁹¹

⁸⁹ Adlam, above n 13.

⁹⁰ One participant chose not to answer this question.

⁹¹ Adlam, above n 13.

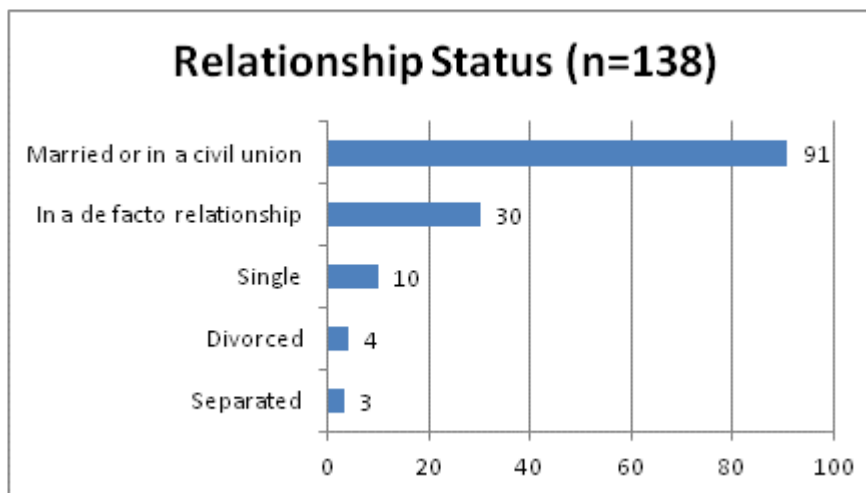
Figure 2: Age



3 Relationship status

As Figure 3 below illustrates, the majority of participants identified as being married or in a Civil Union (65%).

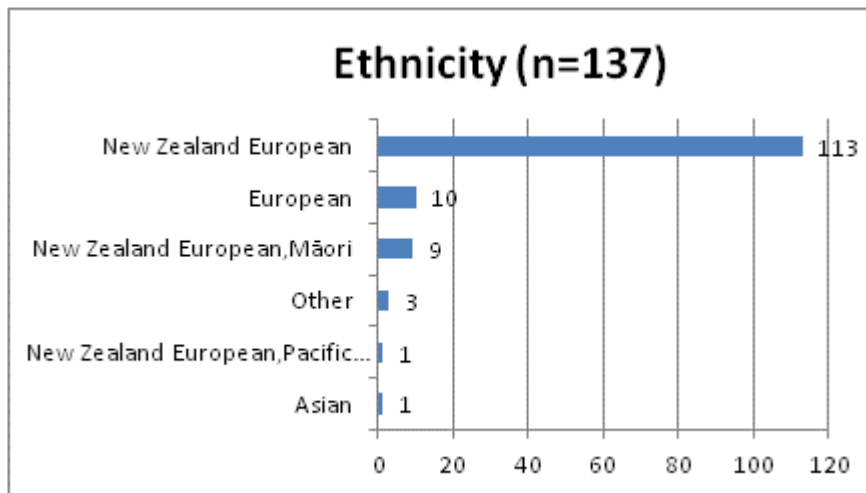
Figure 3: Relationship Status



4 Ethnicity

Participants were asked to choose all of the possible ethnicities with which they identified. No opportunity was provided add “other” ethnicities, so ethnic affiliations beyond those listed in Figure 4 are unknown.

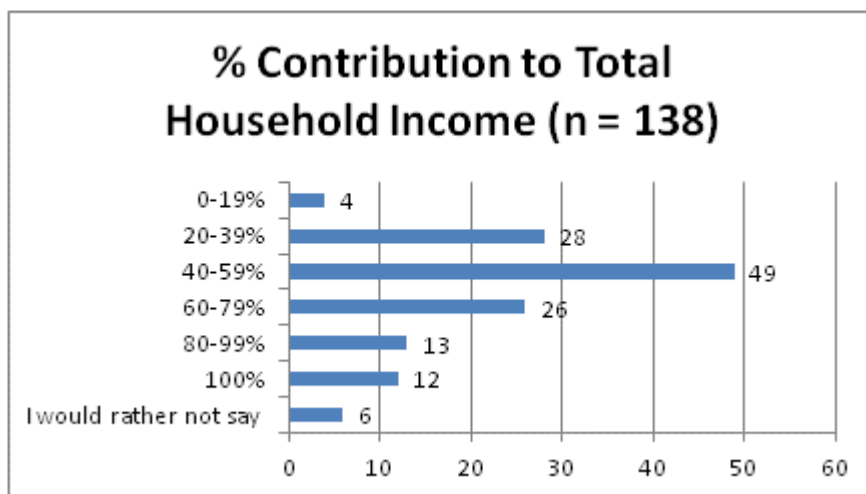
Figure 4: Ethnicity



5 *Total Household Income*

As Figure 5 below shows, just under half of all participants contributed between 40-59% of their total household income.

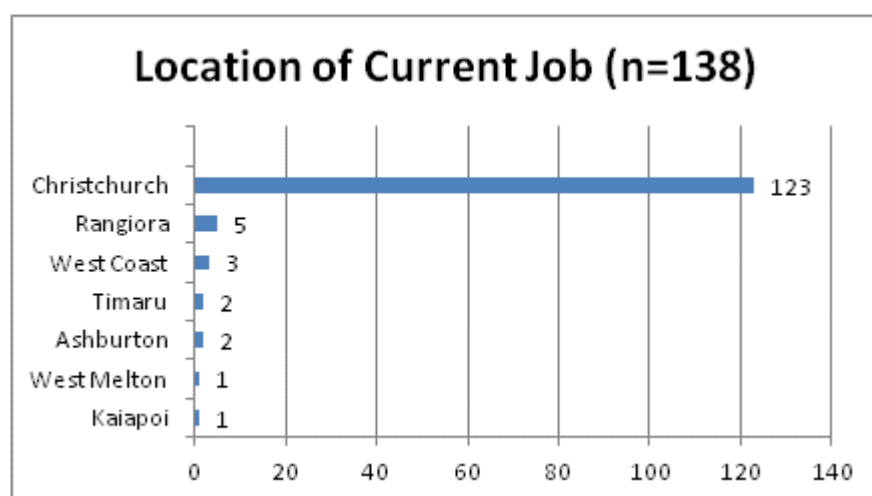
Figure 5: % Contribution to Total Household Income



6 *Workplace location*

As Figure 6 below indicates, a clear majority of participants worked in Christchurch, with very small numbers working in other locations in the Canterbury/Westland region.

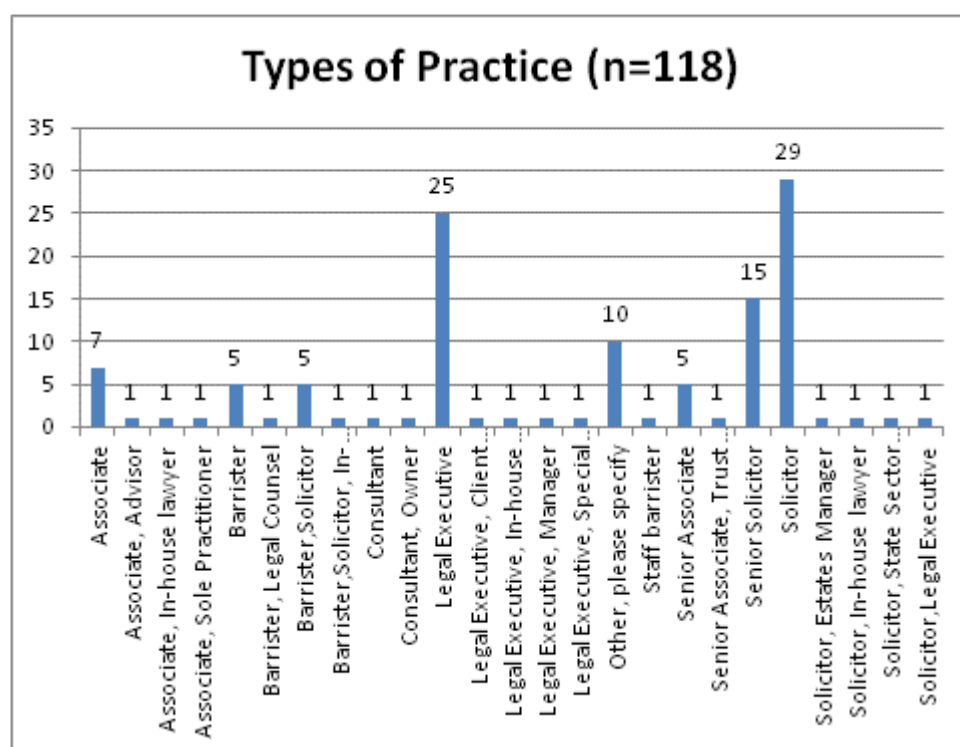
Figure 6: Location of participants' workplace



7 Practice areas

Figure 7 below details the types of practice undertaken by the employee participants only. Employees were either practising lawyers or legal executives.⁹² For this question, employees were asked to tick all categories that applied. Employers were not asked to provide information regarding their work roles.

Figure 7: Types of Practice



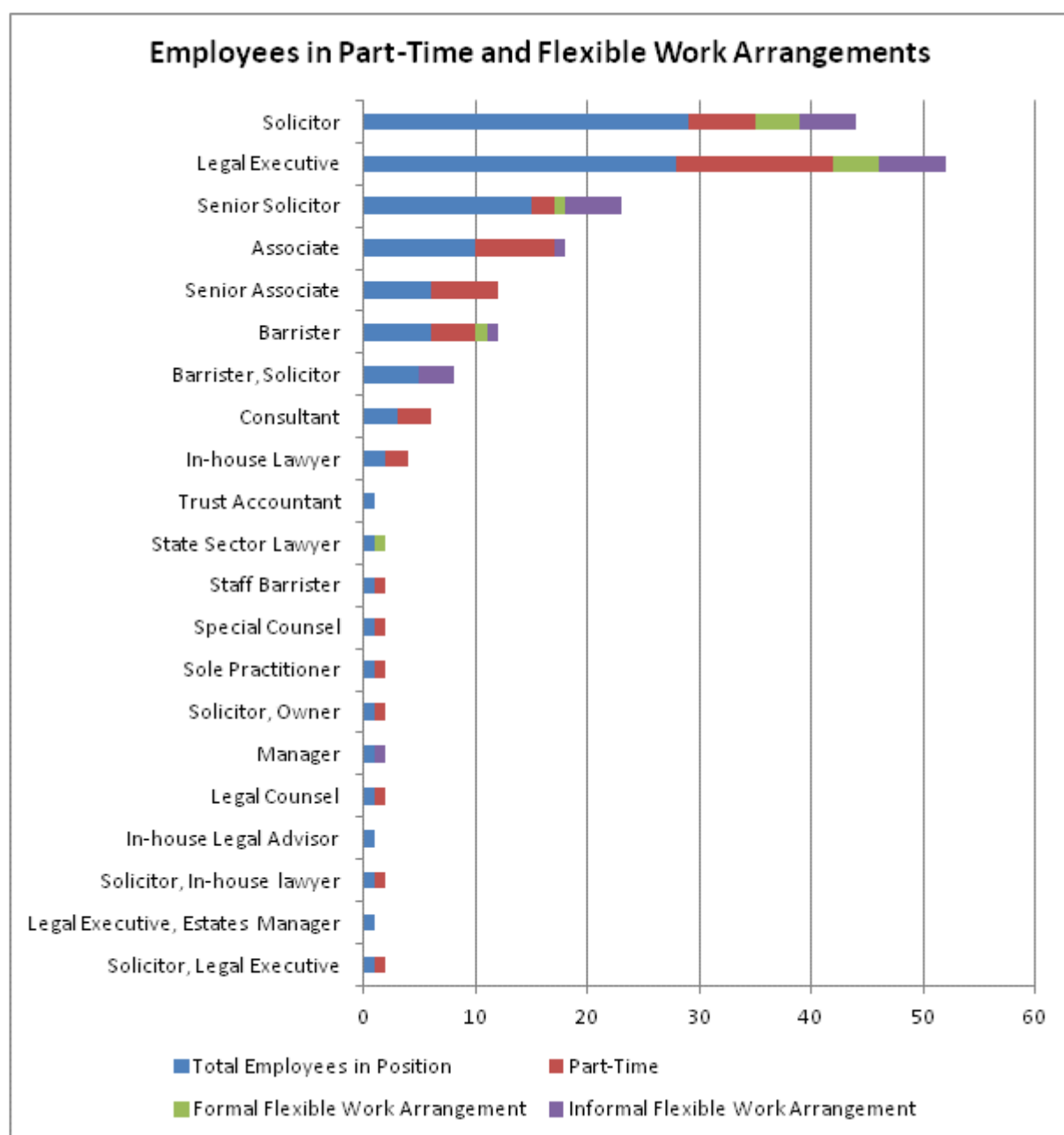
⁹² Three participants were neither lawyers nor legal executives and are not included in the data analysis.

8 *Nature of employment and working arrangements*

One hundred and twelve employees (96% of those responding to this question) were working on a permanent contract, one worked on a casual basis, and three were on a temporary contract, and two did not respond. Note, only employees responded to this question.

Figure 8 illustrates the distribution of part-time and flexible work arrangements identified by the different *employees* in the survey (participants could choose part-time *and* flexible work arrangements if appropriate). While not included in the table above, it is interesting to note that of the twenty *employers* in the survey, seven worked part-time and thirteen had a flexible work arrangement. Notably, all seven of the part-time employers also noted they had a flexible work arrangement, although whether these were formal or informal work arrangements could not be learned from the data.

Figure 8: Nature of Employment and Working Arrangements



Appendix Two

Full-time Employees with Flexible Work Arrangements

Two groups of employees working with flexible work arrangements were identified. The first group is part-time workers who have flexible work arrangements that are embedded into their part-time arrangement. The second group, the subject of this section, is full-time workers with a flexible work arrangement.

Of the sixty-six employees who worked full-time, thirty-four (51.5%) worked under a flexible arrangement. Roughly 17% of these employees had arranged a formal flexible arrangement, with approximately 35% reporting an informal flexible arrangement. Ninety seven percent of employees who worked flexibly had a permanent contract of employment. Only one employee with a flexible arrangement was employed under a temporary/contract and one did not answer this question.

A clear majority of the employees who worked flexibly were women. Only four of the thirty-four employees who worked flexibly were male. The age range of those who worked flexibly was 27 to 62, with an average age of 42.6 and a median age of 41.5. Interestingly, the men's average age for working flexibly was younger (34.8 years) than the women's (43.7 years).

Flexible work arrangement hours ranged from 37 to 60 hours per week with an average of 42.6 hours per week (men worked on average 45.5 hours per week, while women worked 42.2 hours per week).

Reasons for choosing to work flexibly were, for the vast majority of employees, linked to their wish to reduce the hours they worked per week (85.3%). In total, flexible working arrangement allowed employees to choose to work an average of 34.7 hours per week. Males continued to work more on average per week (42.5 hours) than women (33.6 hours).

1 Basis for requesting a flexible working arrangement

The *Employment Relations Act* 2000 was amended in 2007 to create a statutory right for employees who have care responsibilities for any person to request a variation in their time and place of work. The Act was amended in 2015 so that all employees now have, from the first day of their employment, the right to request flexible work arrangements. When asked if they had based their request for a flexible work arrangement on legislative provisions, only one employee had done so. Just under sixty percent had not, 32.4% considered the legislation irrelevant and 8.8% selected the "unsure" option. These results are consistent with review of the legislation,⁹³ which found that the majority of people who worked under flexible work arrangements did not rely on the legislation.

⁹³ Department of Labour (2011), Review of Flexible Working Arrangements in New Zealand Workplaces. Wellington: Department of Labour.

2 *Availability of flexible working arrangements*

Three employees reported they had been refused the opportunity to use a flexible work arrangement. One of the three had been able to work flexibly with a previous employer. As one employee explained, “I was unable to have a flexible work arrangement in private practice and that has impacted on my ability to be in private practice.” Another mentioned the lack of flexible work arrangement following a return from parental leave, “When I came back from maternity leave the first time, I left the firm at the time because of it.”

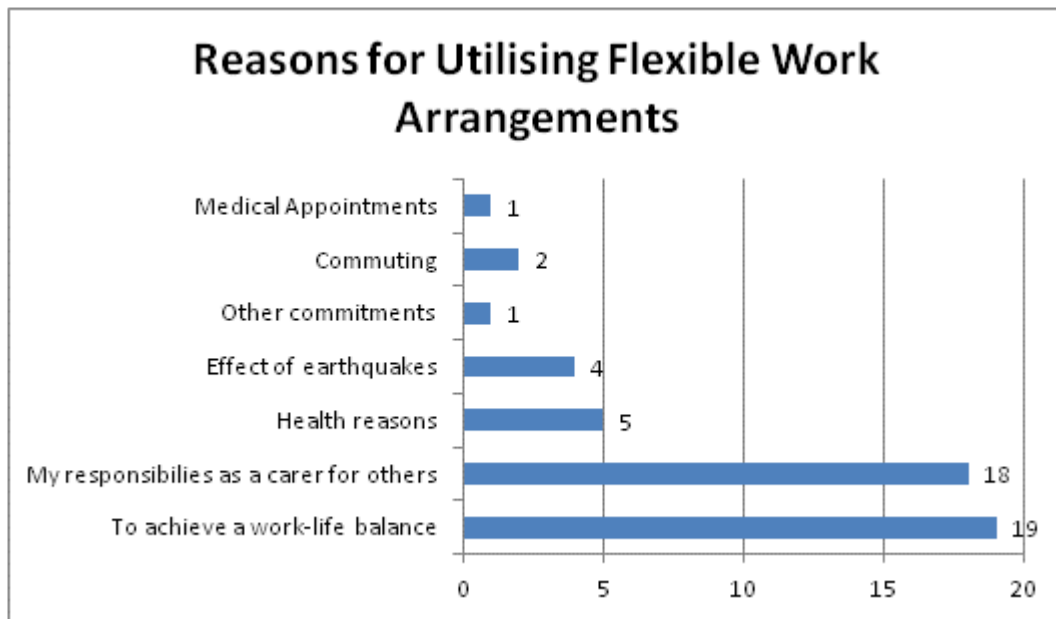
3 *Reasons for using flexible working arrangements*

When asked to indicate their reasons for working flexibly, a range of options were provided and employees were asked to select all that applied and were also able to add “other” reasons. As Figure 1 shows, the most frequently given reasons for working flexibly were a desire to achieve a work-life balance (55.9%) and a responsibility as a carer for others (52.9%). A minority (14.7%) indicated that they were working flexibly for personal health reasons and 11.8% linked working flexibly to the impact of the Canterbury earthquakes. Those selecting the “earthquake” option were given the option to give a further explanation. Three responses were received: “Work from home as no space in relocated office”; “Counselling” and “Able to work from home and flexible hours following the earthquake”.

A number of employees who identified as single reported “other” reasons for working flexibly, including “Other commitments”; “To ameliorate the effects of working between two distant sites”; “Distance of residence from place of work”; “to go to Doctor’s appointments, Dentists, etc” and “Available to all employees.”⁹⁴

⁹⁴ This last statement is not entirely clear. It is understood that the participant is saying that flexible work arrangements are available to all employees and perhaps she is not actually using it (inferring this from her other answers).

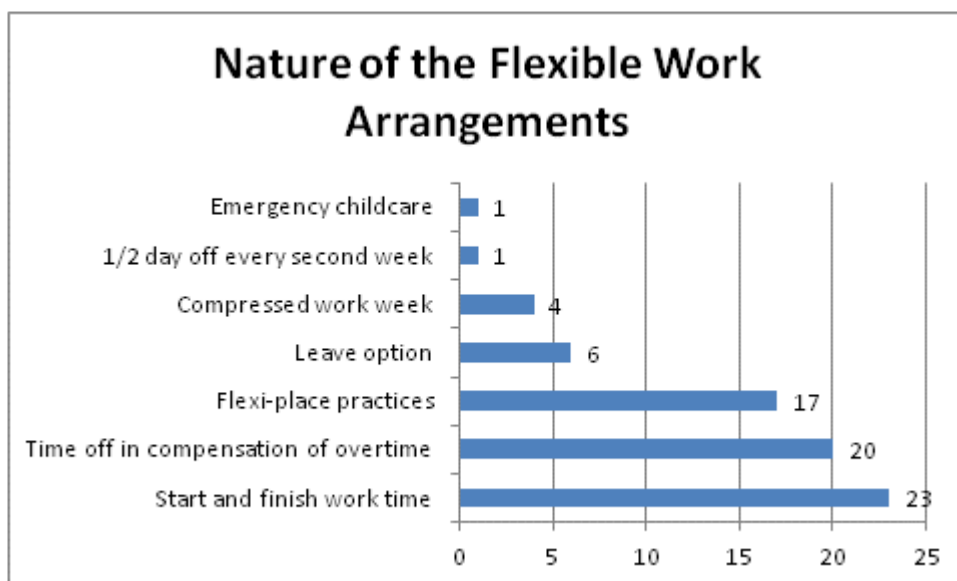
Figure 1: Reasons for having a flexible working arrangement



4 Nature of flexible working arrangements

Employees were asked to explain the nature of their flexible working arrangements. As Figure 2 illustrates, many utilised more than one type of flexible arrangement. A majority (67.6%) chose to work flexibly in order to be able to choose the start and finish time of the working day. At the opposite end of the response spectrum, one used flexible work arrangements only fortnightly. Another respondent explained how flexible working arrangements were used as an emergency measure: "If I have to leave to leave work for child care purpose I can make up the lost time on other days or during lunch times. I've also been able to reduce my hours of work when my husband has been away for long periods".

Figure 2: Nature of flexible working arrangements



4 *Length of arrangement*

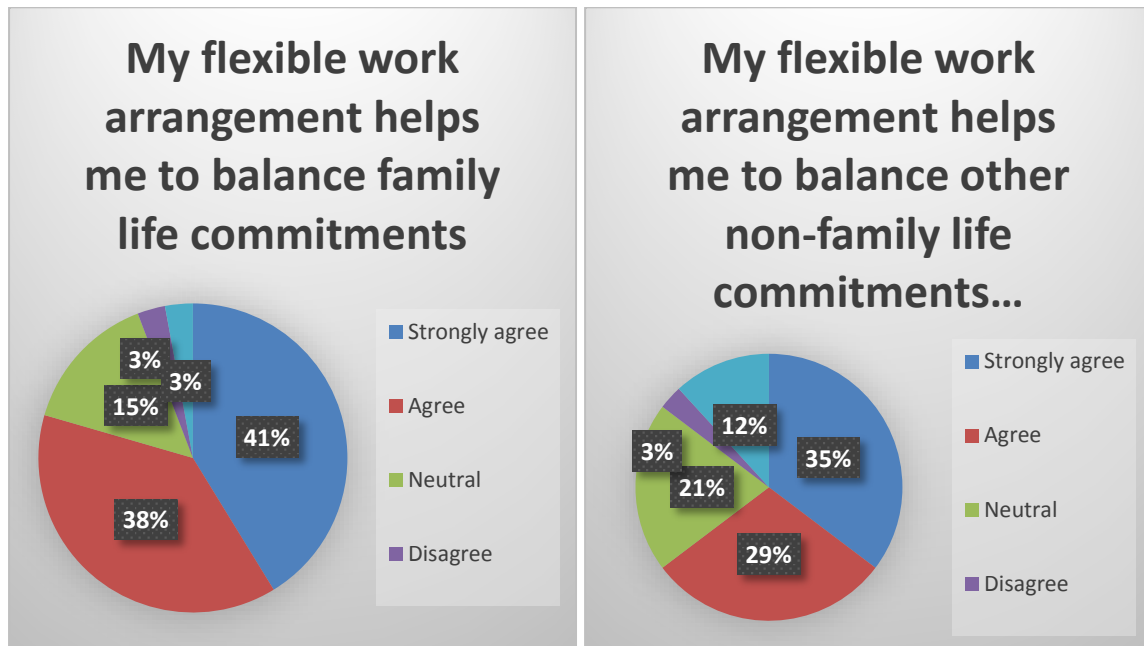
Eighty-two percent of employees had used a flexible working arrangement from one to 15 years, with 4.4 years being the most common length of time. A minority (17.6%) had been in a flexible working arrangement for less than one year. More than half (61.8%) were able to use a flexible arrangement from the outset of their employment, but 26.5% had not, and 11.8% were indicated they were “unsure”.

5 *Relationship with work-family balance*

As Figures 3 and 4 below demonstrate, flexible work arrangements allowed employees to balance work with other aspects of their life, including both family and non-family commitments. It would be interesting to explore this data further by asking participants if they feel that a flexible work arrangement is more important to work-family reconciliation than to work-life reconciliation.

Although a flexible work arrangement was beneficial to individuals who wished to reconcile work and family commitments, it appeared that it is not essential for the majority (82%) in order for them to participate in paid work. One employee remained neutral on this question. A minority of five thought that they would not be able to do paid work at all if they could not use a flexible work arrangement (5.9% strongly agreed and 8.8% agreed).

Figures 3 and 4: Relationships Between Flexible Work Arrangements and Family/Non-Family Life Commitments

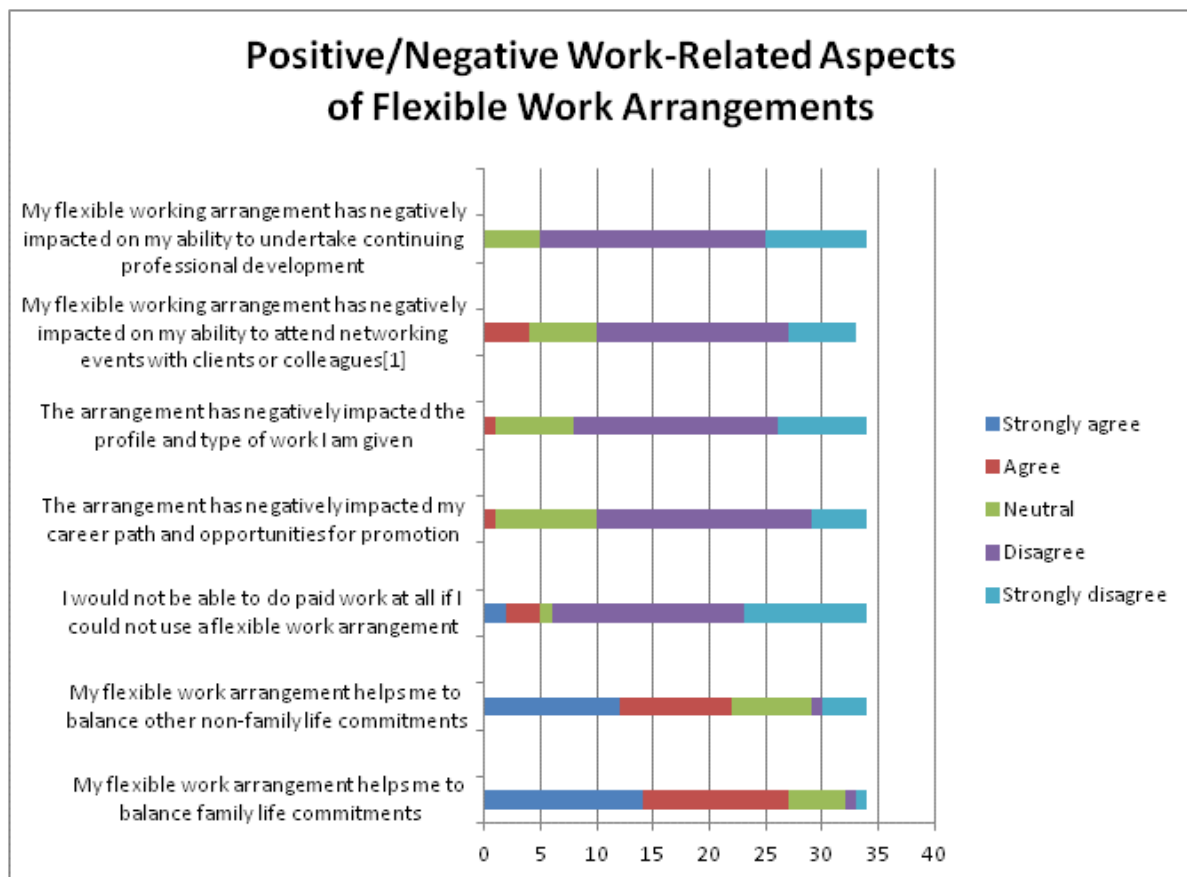


6 Views of flexible working arrangements

Employees were generally positive about the outcome of their flexible arrangement. Overall, a third strongly agreed and over half agreed that their arrangement has worked as intended. Only five selected the neutral response to this question.

Figure 5 illustrates employees' level of agreement on a five-point Likert scale with a series of statements focusing on potential positive and negative aspects of working flexibly.

Figure 5: Views on flexible working arrangement



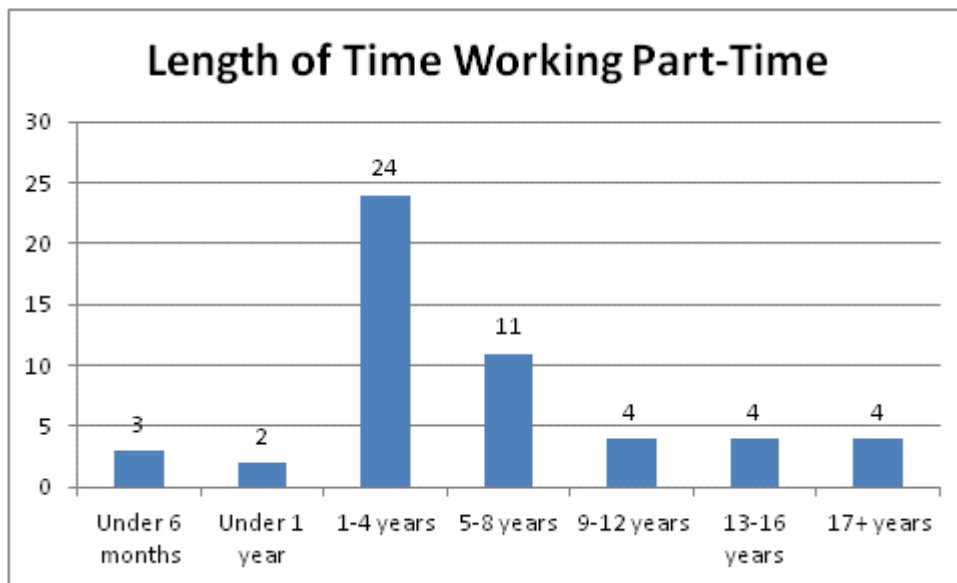
Notably, questions remain with regard to how a flexible working arrangement impacts on pay. A majority (52.9%) were unsure as to whether they were being paid the same when compared to someone else at the same level but not using a flexible arrangement. A majority of the rest (38.2%) agreed that they received equal pay, while three thought they were not receiving equal pay (8.8%).

Appendix Three

Employees with Part-Time Work Arrangements

Fifty two employees (44.1%) were working part-time. Of these, 51 (98.0%) were female. The age of part-time participants ranged between 28 and 68, with an average age of 41.7 years. As Figure 1 shows, most had worked part-time for more than one year (90.4%), with 6.7 years being the average period that participants had worked part-time.

Figure 1: Length of time all part time employees have been working part time



A majority were working part-time on a permanent basis (86.5%). A majority, albeit a smaller one, had moved in their current role from full-time to part-time work (55.8%).

Average hours worked per week by part-time employees ranged from eight hours to 40 hours. Nearly half reported that they would not choose to work a different amount of hours each week, while 38.5% indicated they wanted to reduce their number of hours worked each week. Just seven wanted to increase their numbers of hours worked each week.

2 Basis for requesting part-time work

Part-time employees were asked whether they based their request for part-time work on legislative provisions. A large majority (73.1%) reported that they had not. One part-time employee reported that he or she had, another was unsure and 21.1% selected the "not relevant" option.

3 Availability of part-time working arrangements

Although a clear majority (88.5%) reported they had not been refused the opportunity to work part-time, 11.5% reported that they had. As the comments from these six part-time

employees indicate, this refusal led some of them to leave the place of employment where the refusal occurred:

“The law firm where I previously worked had no part-time work options after maternity leave, only full-time work.”

“At the end of both my maternity leave periods I was declined part-time work and in fact had to resign.”

“When I had my first child in 1997 part time work was not offered to me.”

“Yes as regards the terms of the part time arrangement. At the large firm I returned to following maternity leave, I had to negotiate hard to get 3 days a week. I was only allowed it for 3 months and then it went up to 4 days a week. 4 days a week in that firm is, in reality, working full time on a part time wage.”

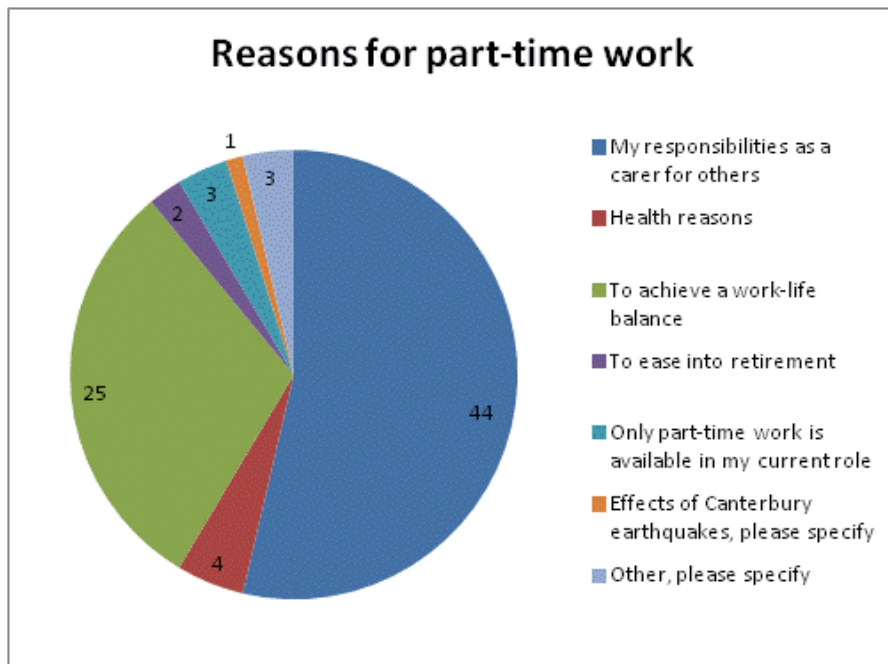
“When I worked for a large law firm I was refused part time work.”

“In previous role originally paid a lesser salary so I could start work 30 minutes late to take into account my child care arrangements. I was billing 5 times my salary so no issue with making budget. There was [a] partnership shake up and [I] was told no change in pay but I had to start same time as other staff or I could find another job....so I did.”

4 Reasons for working part-time

When asked to indicate their reasons for working part-time, a range of options were provided and part-time employees were asked to select all that applied and were also given the option to add their own additional reasons. As Figure 2 shows, the most frequently given reason for working part-time, by a large margin, was responsibility as a carer for others (84.6%), followed by a desire to achieve a work-life balance (48.1%). Only one employee reported working part-time for earthquake related reasons and the “other” reasons involved spending time with children (2) and commuting from the country (1).

Figure 2: Reasons for working part-time?

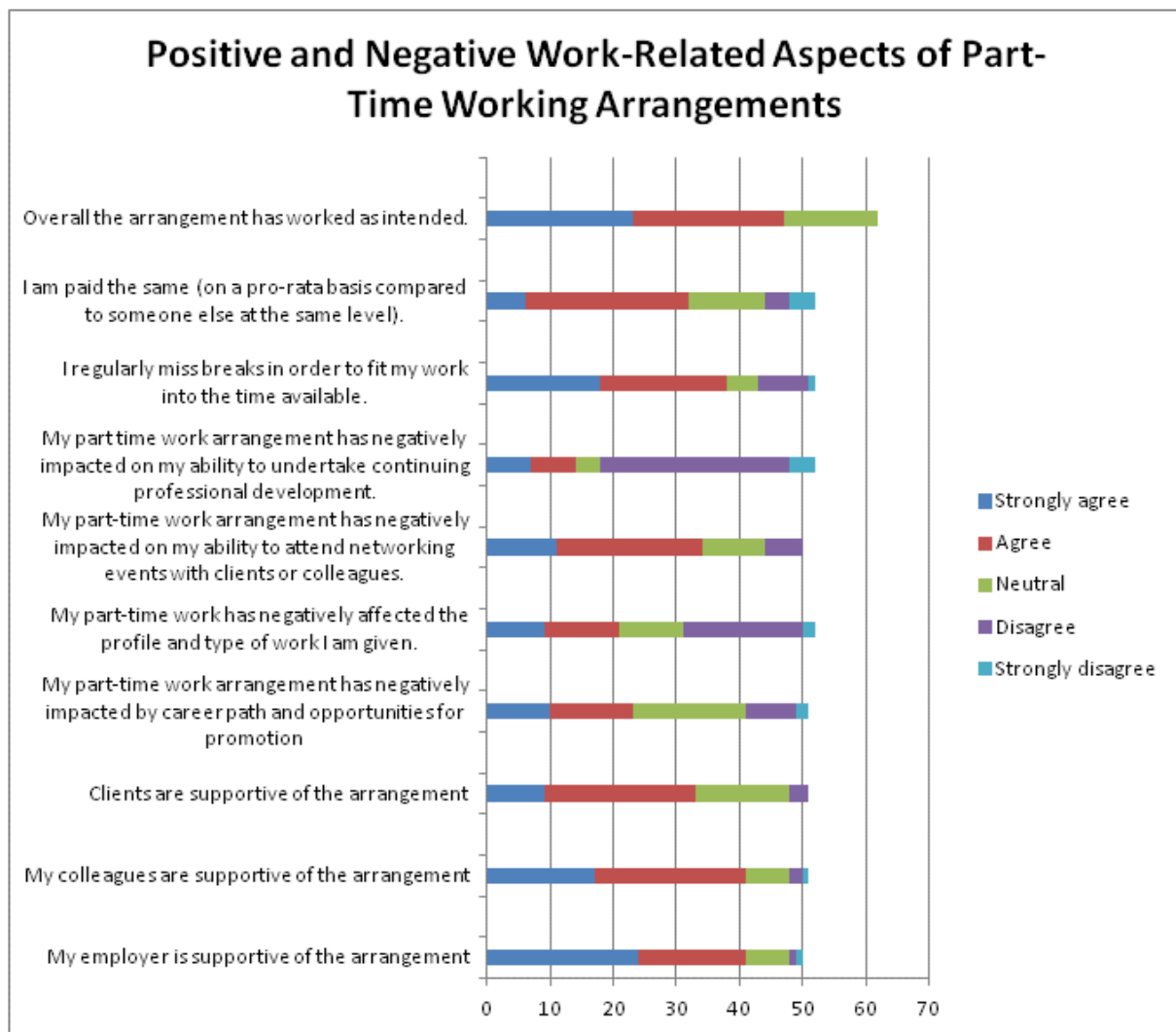


5 Views on part-time work

For many part-time employees, their reason(s) for working part-time were borne out by their actual experiences. Part-time employees were asked to indicate their level of agreement on a five-point Likert scale with the statement, “Working part-time helps me balance family commitments”. A large majority indicated that they agreed or strongly agreed this statement (94.2%). A majority, although smaller, also agreed or strongly agreed that that working part-time helped them balance their non-family life commitments (63.5%). Despite these acknowledgements of the benefits of working part-time in terms of work-life balance, a majority disagreed or strongly disagreed that they would not be able to do paid work at all if they could not work part-time (57.7%).

Part-time employees were also asked to indicate their level of agreement on a five-point Likert scale with a series of statements focusing on part-time work. As Figure 16 shows, significant majorities either agreed or strongly agreed that their employer was supportive of the arrangement (80.4%), as were their colleagues (80.4%). A smaller majority agreed or strongly agreed that their clients were supportive of the arrangement (64.7%). All participants were either agreed or selected the neutral option in response to a statement that their part-time arrangements had worked as intended.

Figure 16: Views on part-time work



Part-time employees were also asked what more employers could do to support part-time work. Eighteen responded to this question. Three responses indicated their employers were very supportive and could do nothing more. Other responses appearing more than once included provision of more support, particularly in relation to workload management and allowing greater access to working and accessing work information from home (2). All eighteen responses are set out below:

“Be more supportive of flexible hours.”

“Realistic workloads or more resource.”

“Provide consistent intermediate/junior support.”

“Appoint qualified legal executive to assist me cover more of the working week.”

“Hire a 2nd person - there's definitely a fulltime position if I wanted it.”

"A more understanding attitude would be helpful, just appreciate that it is difficult to juggle a job part time with other responsibilities and that I have other ties on my time which mean I can't commit more than I currently do."

"Access emails and calendar from home."

"Allow the option to work from home."

"More challenging work."

"Have more office space available so part-timers always have a place to sit. This is a problem when multiple part-timers work at the same times."

"Provide financial assistance for child care over school holidays or additional paid leave."

"Promote team approach to files and clients."

"Not make me feel like they are doing me a huge favour."

"Communicate their intentions more completely."

"My current employer is fantastic (a barrister sole). My previous employer (a large prominent ChCh firm) supported part time work in principle and from a marketing perspective, but in reality they weren't supportive, with the emphasis being on budgets etc (in particular in my team - litigation). In my current role my non-monetary contributions are valued more and I feel more valued as an employee. At the large firm I was at, I was stunted working part time. It was quite apparent that to get to senior associate/partner level, you needed a stay at home husband or a husband with flexi-work arrangements. It was also quite apparent that "part time" work wasn't really part time in reality - again, this harks back to the financial drivers."

"Nothing, they are very supportive."

"Not a lot more, they are very supportive."

Appendix Four

Full-time Employees with neither Flexible nor Part-time Work Arrangements

Thirty two employees (27.1%) were neither working part-time nor under flexible arrangements. Thirty one were female and one left this field blank. The age of this subset ranged between 24 and 59, with an average age of 36. Thirty one of these employees were working permanently (96.9%) and one was working on a temporary/contract basis (3.1%).

The average hours worked by this subset ranged from 37 hours to 60 hours per week, with the average of these being 43.1 hours per week. When asked what hours they would like to work per week, the range was 20 to 42 hours per week with an average of 35.6 hours per week.

1 Availability of flexible work arrangements

Employees without a part-time or flexible working arrangement were asked how flexible work arrangements were communicated in the work-place, and the most common response was that this was considered on a case by case basis (28%). Seven noted that flexible work arrangements were not communicated at all. Other responses included that they were unsure (6%), or that this was in firm policy manuals, specified in employment agreements, discussed verbally at induction, limited to special arrangements, and that some 'flexibility exists' (3% each).

Additional comments included:

"There has been some communications sent to employees as an overall study to gauge what employees' views are. But as far as I'm aware there is nothing definite in place. I think it is more that any individual wanting to work flexi hours would need to ok this with their supervising partner/department."

"The partners would assess this on a case by case basis on request from staff. It is not a normal part of employment to offer flexible working arrangements. In saying that, my employers are generally flexible with out of office appointments, etc."

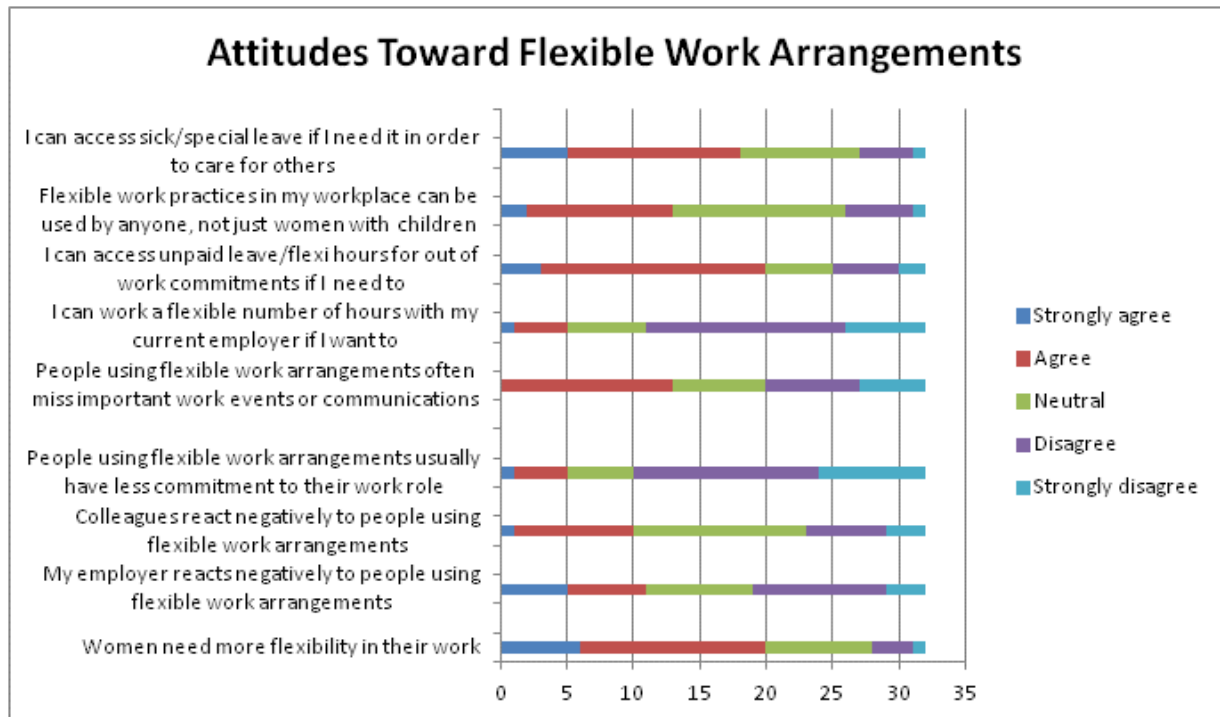
"I imagine I could ask. I was granted a month's unpaid leave for overseas travel. My employer recently mentioned they would like to talk to me about what they could do to keep me at the firm so I feel I may now be in a position to request more flexible work arrangements."

"They just seem to happen to some staff members and not others - it depends on which partner they work for."

2 Attitudes towards flexible working arrangements

This subset of employees were asked to indicate their level of agreement on a five-point Likert scale with a series of statements about flexible work arrangements (Figure 1).

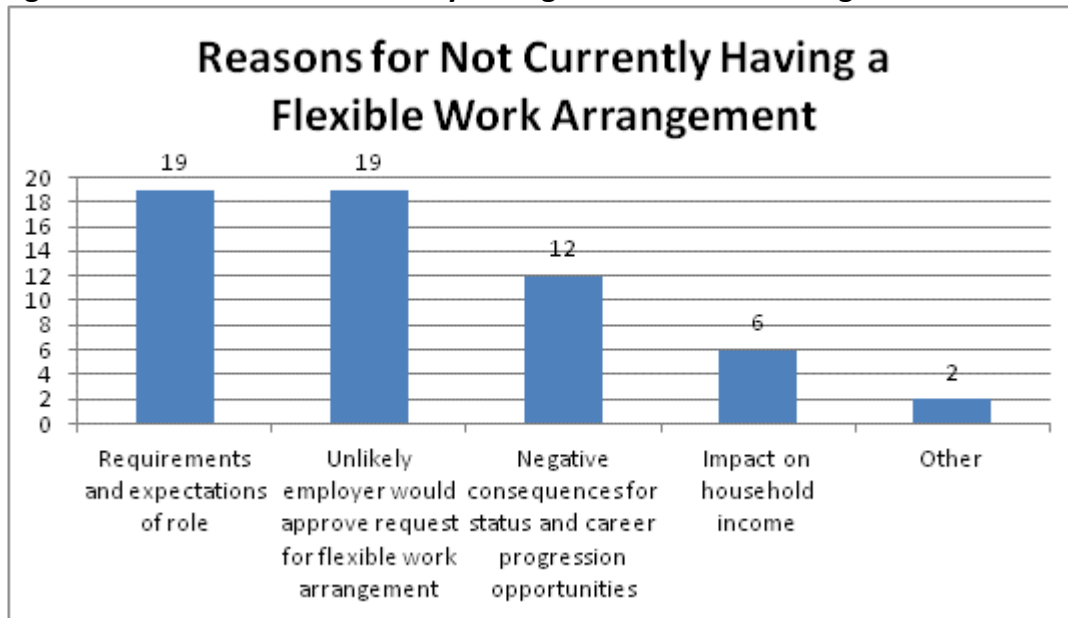
Figure 1: Attitudes toward flexible working arrangements



3 *Reasons for not having a flexible working arrangement*

Figure 2 shows this group of employees' reasons for not currently having a flexible work arrangement. Participants were able to select more than one response

Figure 2: Reasons for not currently having a flexible work arrangement



4 *Availability of Part-time Work Arrangements*

This subset of employees was also question about how part-time work options were communicated in the work-place. Seven indicated that these options were not discussed at all, and comments included:

"They are not, but if an employee wanted to explore such options I think there would be a willingness to consider them."

"Frowned upon and not available, although we have a couple of part timers hired years ago who have been asked to go full time but won't."

"The employer saying "it wouldn't work" because we need to be available for court every day of the week."

Three commented that part-time work was only available to certain persons, for instance those with childcare duties. One explained:

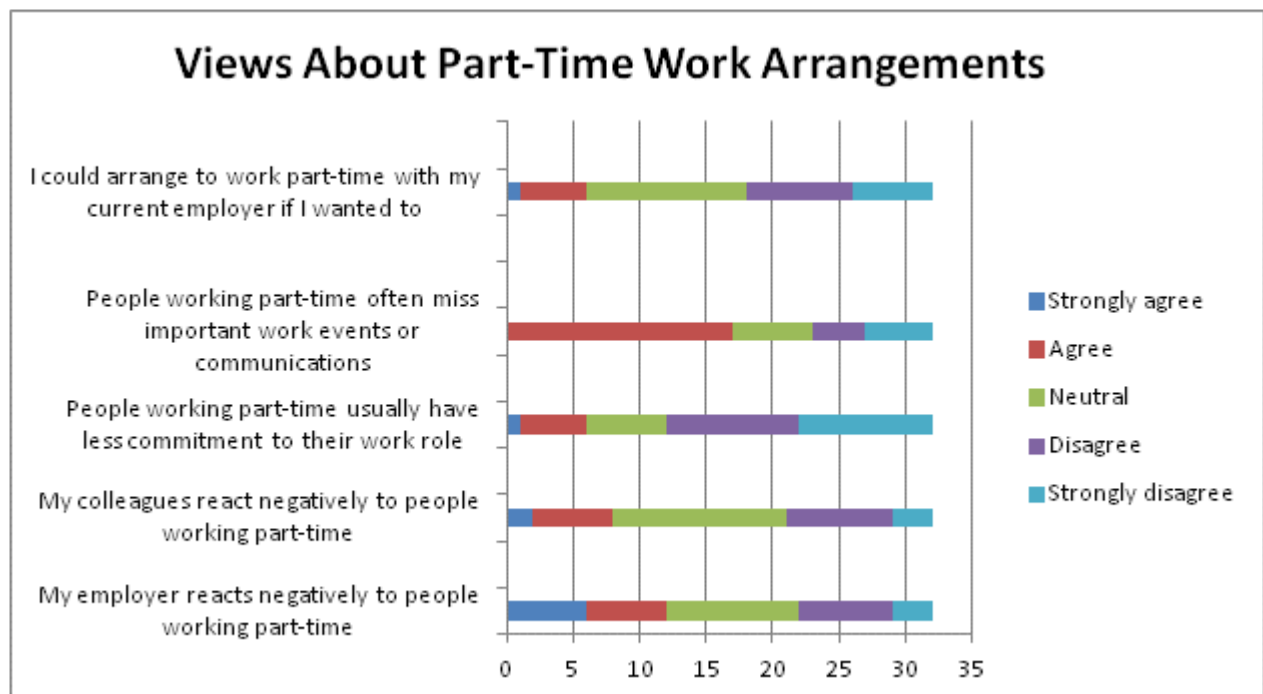
"Part time work options are available for parents with childcare duties but strongly discouraged for everyone else. I had a small period where I was permitted to work a four day week but my workload was increased during this period (with no support) and when I asked to make the change permanent I was asked whether the firm was the right fit for me."

These employees also mentioned that part-time work was available on a case by case basis (18%), that it was addressed in firm policy manuals (9%), that some positions that were advertised as part-time from the outset (6%), or was dealt with in individual employment agreements (3%).

5 Views on Part-time Work

Employees without flexible or part-time arrangements were asked to indicate their level of agreement on a five-point Likert scale with a series of statements about working part-time (Figure 3). With one exception, responses were very similar to the equivalent views sought in relation to flexible work. The exception was that these employees were more negative about their ability to work on a flexible basis with their current employer than they were about their ability to work part-time.

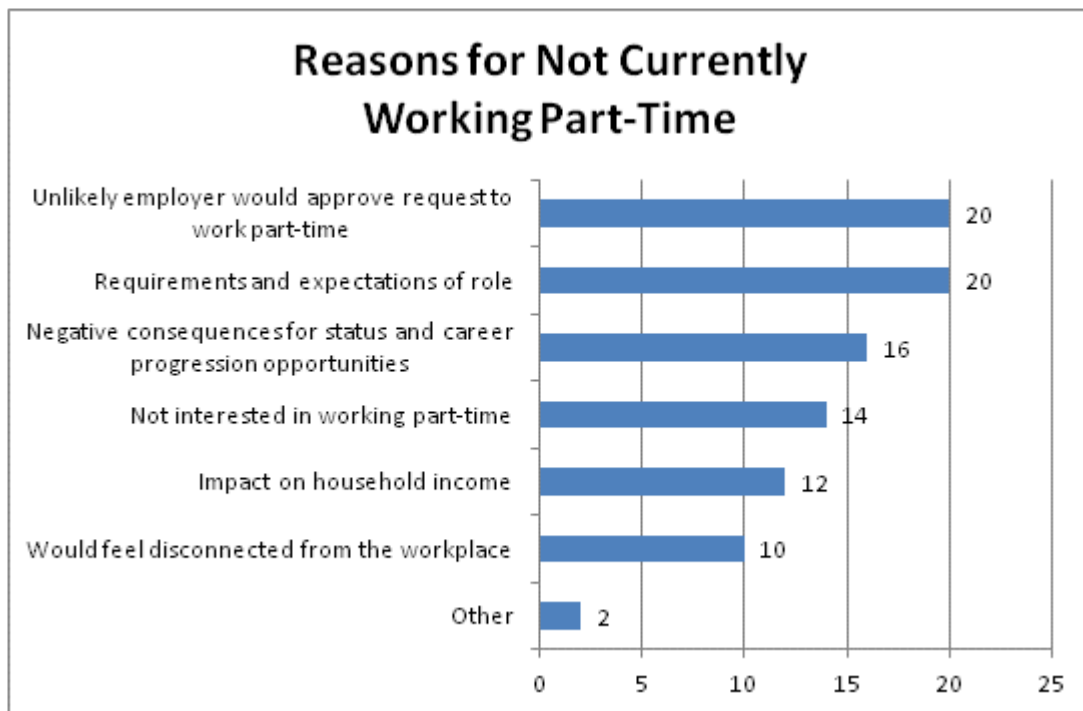
Figure 3: Views on part-time working arrangements



6 Reasons for not working Part-time

Figure 4 shows employees' reasons for not currently working part-time. Participants were able to select more than one response. Responses showed a similar pattern as to why this group did not currently work flexibly (see Figure 4).

Figure 4: Reasons for not currently working part-time



Appendix Five

Employee Lawyers and Legal Executives

The following analysis highlights significant differences between lawyers and legal executives. The majority of employees (nearly 73%) were lawyers, 94% of whom were female. All of the legal executive participants were female.

1 *Age*

The age range of lawyers was between 24 years and 62 years and the average age was 38.4 years. The age range of legal executives was narrower at 32 years to 60 years old, and the average age was older at 45.7 years.

2 *Ethnicity*

The majority of lawyers (81%) were NZ European, 7% were European, and 8% were NZ European and Māori. One respondent identified as Pasifika and European. The ethnicity of legal executives was slightly more European, with 86% identifying as NZ European, 10% as European and 1 participant as NZ European and Māori.

3 *Relationship Status*

As to relationship status, 60% of lawyers were married or in a civil union while 23% were in a de facto relationship. Nearly 12% were single, two were divorced and two were separated (both 2.3%). A greater proportion of legal executives were married or in a civil union (79%), though the proportion was less for those in a de facto relationship (17%) and 1 participant was divorced (3%),

4 *Years Qualified*

The lawyers had been qualified for an average of 11.1 years and the range was between 1 and 34 years.⁹⁵ The average years of actual practising experience was 10.6 years and the range was between one and 38 years.⁹⁶ Most (95%) were employed on a permanent basis, 3.5% were on a temporary contract, and one was on a casual contract.⁹⁷ All of the legal executives were permanent employees.⁹⁸ The number of years qualified as a legal executive and average number of years qualified was similar to those of the lawyers. The number of years practicing experience ranged from three years to 35 years for legal executives, and the average number of years practical experience was higher than for the lawyers, at 15.7 years

⁹⁵ There were 4 blank responses.

⁹⁶ There was 1 blank response.

⁹⁷ There was 1 blank response.

⁹⁸ One participant did not answer this question, however.

Table 1: Household income by profession

		What is the percentage of your total household income that comes from your income?							Total
		0-19%	20-39%	40-59%	60-79%	80-99%	100%	I would rather not say	
What is your current position or positions? Please select all that apply.	Barrister	0	3	4	0	2	2	1	12
	Partner	0	0	0	0	0	0	0	0
	Consultant	2	0	0	0	0	0	0	2
	Associate	0	3	4	3	0	1	0	11
	Senior Associate	0	1	2	3	0	0	0	6
	Solicitor	0	7	17	4	6	4	3	41
	Senior Solicitor	0	2	5	3	2	3	0	15
	Law clerk	0	0	0	0	0	0	0	0
	Legal Executive	0	8	13	5	3	0	2	31
	Other, please specify	1	4	5	2	1	1	1	15
	Total	3	26	46	19	11	11	6	122

5 Household Income

The 40-49% of total household income bracket was the most common response for both lawyers and legal executives. Nearly 70% of legal executives were contributing 60% or under of household incomes, and 65% of lawyers were contributing 65% or under of household incomes.

6 Type of Work

The most common areas of practice for lawyers were commercial (29%), and conveyancing/real property and civil litigation (23% each). Family law and trusts followed at 19% each. Legal executives predominated in conveyancing and real property (nearly 93%), followed by wills and estates (75%) and trusts (39%).⁹⁹

7 Hours Worked

Although the ranges of hours worked by the lawyers (from 9 to 60 average hours per week) was much wider than that worked by the legal executives, the average hours worked per week by members of both groups was very similar (35.1 hours for lawyers and 34.8 hours for legal executives). Over half of the lawyers (56%) intended to practice law for the rest of their careers, while a significant percentage (37%) did not. Seven percent of respondents were unsure about their future plans. A greater proportion of legal executives (69%), were intending to remain in that career throughout their working lives.

8 Career Breaks

Nearly half of the lawyer group (49%) had taken a career break. Twenty-one percent of these had taken 1 career break, 23% had taken 2 career breaks, and nearly 5% had taken three career breaks. In contrast, nearly two-thirds (62%) of the legal executives had taken a career

⁹⁹ Participants were invited to tick all types of work as appropriate.

break. Of this group, 44% had taken one career break, 50% had taken two career breaks, and approximately 6% had taken four career breaks.

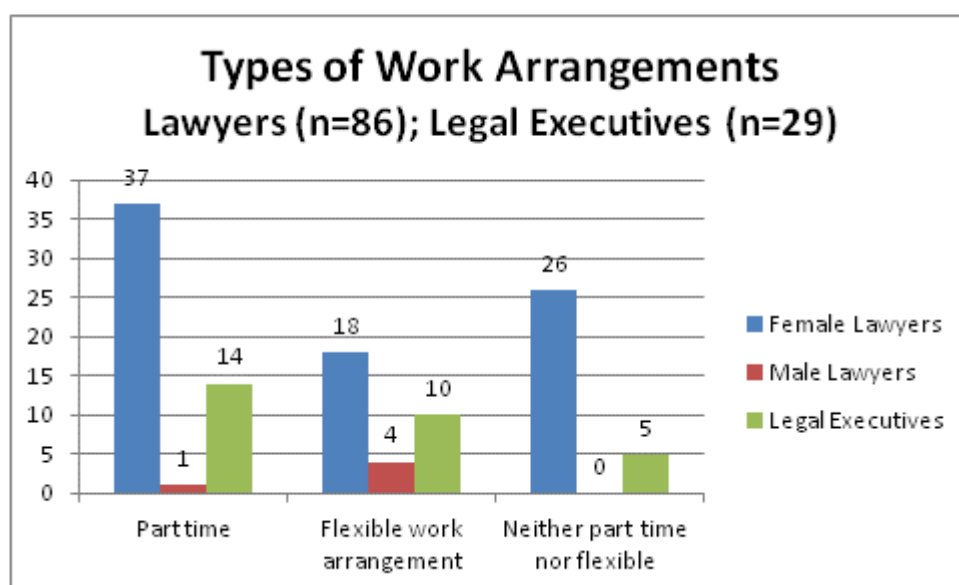
9 Availability of Part-time Work

Nearly 90% of the lawyers had part-time working arrangements available in their workplace. However, only 23% thought it was easy to work part-time at a senior level. A greater majority of legal executives (96%) had part-time working arrangements available in their place of work,¹⁰⁰ and a slightly greater percentage (31%) considered it was easy to work part-time at a senior level.

10 Availability of flexible work practices

A variety of flexible work practices was available to the lawyer participants, in differing degrees. Nearly two-thirds could choose start and finish times, just over half (53.5%) could use flexi place practices, half had leave options, 44% could have time off to compensate for overtime and just over a quarter could compress their working week.¹⁰¹ Roughly 10% of the respondents were unsure. Forty-three percent thought it was easy to use flexible work practices at a senior level, while over 56.5% thought that it was not.¹⁰² The figures for legal executives followed a strikingly similar pattern.

Figure 1: Types of Work Arrangements: Lawyers and Legal Executives



11 Flexible work arrangements

A quarter of lawyer participants had a flexible working arrangement, with nearly a third of these being formal. Four of these participants were male lawyers (18%). The most common flexible working arrangement was the ability to choose start and finish times (nearly 73%),

¹⁰⁰ There were 2 blank responses to this question for legal executives.

¹⁰¹ Two participants (2%) were self-employed.

¹⁰² There was 1 blank response.

while flexi-place practices was the second most common response (68%), followed by time off in compensation for overtime (59%). The range of time these participants had been using flexi-time practices was from 1 to 10 years. The majority had been able to use flexible work arrangement from the outset (73%).

A greater proportion of legal executives than lawyers had a flexible working arrangement and a greater proportion of these arrangements were formal. Just over a third of the legal executives worked under a flexible work arrangement, with (40%) of those arranged as formal flexible work and 60% as an informal flexible work arrangement.

The main reason for using a flexible work arrangement chosen by lawyers was 'My responsibility as carer for others' (64%), followed by 'To achieve a work-life balance' (54.5%). The next most common reason was 'Effects of Canterbury earthquake' (18%). For legal executives, the main reasons were reversed; 60% wished to achieve a work-life balance and 30% noted having responsibilities to care for others. 'Personal health reasons' was chosen by 20% of the respondents.

A large percentage of lawyers were unsure whether they were paid the same as someone else at the same level who was not using a flexible work arrangement (45.5%), while nearly as many said they were sure (41%). The majority of legal executives (80%) were unsure if their pay matched someone without a flexible work arrangement, but 20% noted that were paid the same. Three lawyer participants (nearly 14%) were not paid the same. Over half of these lawyers (59%) did not base their request for flexible work arrangement on legislative provisions, nearly a third thought this was not relevant, and one lawyer (4.5%) did use the provisions, while one was unsure. Responses for the legal executives were similar. Only two lawyer participants (9%) had been refused the opportunity to use a flexible work arrangement and the proportion for legal executives was very similar (1, (10%)).

Most lawyers (86%) with flexible work arrangements strongly agreed or agreed that they helped balance family life commitments, and over two-thirds thought the flexible work arrangement helped balance other non-family life commitments. Most of the lawyers (nearly 82%) disagreed or strongly disagreed that they would not be able to do paid work at all without a flexible work arrangement. Overall these arrangements had worked as intended (86%), and the same number indicated their employers were supportive of the arrangement, as well as colleagues. However, only half strongly agreed or agreed that clients were supportive of the arrangement. Legal executives were less sure of their colleagues and clients, with only half agreeing colleagues were supportive and only 1 (10%) agreeing clients were.

In contrast to part-time working, flexible work practices were not generally seen by lawyers to have significant negative effects on legal careers. A majority (73%) disagreed or strongly disagreed that the arrangement negatively impacted on the career path and opportunities for promotion, and there was disagreement and strong disagreement also that the arrangement negatively impacted the profile and type of work given (82%), or that it negatively impacted on ability to attend networking events with clients or colleagues (173%), or on ability to undertake continuing professional development (91%). Figures were similar for legal executives.

Forty-four percent of the lawyer participants were using part-time arrangements. Only one of these participants was a male lawyer. Nearly 6% had been refused the opportunity to work part-time. For those lawyers working part-time, the range of average hours worked was nine to 40 hours and the average was 24.3 hours. Most of these participants (89.5%) had worked part-time for between one to 25 years. The average period of part-time work was six and a half years. Most of these lawyers (84%) were working part-time permanently and half had moved from full time work to part time work in their role. Most (76%) had not used the legislative provisions when seeking a part-time arrangement, one lawyer had and eight (21%) thought the provisions were not relevant.

A slightly larger proportion of legal executives were working part-time (48%). One legal executive had worked part-time less than 6 months while the rest had worked part-time between one to 19 years and the average time was 7.3 years. A greater proportion of the legal executives were working part-time permanently (nearly 93%), and similarly, a greater proportion of legal executives had moved from full time to part-time (71%).

The main reason given by lawyers for working part-time was: 'My responsibility as carer for others' (89.5%). The next most popular answer was 'To achieve a work-life balance', which was chosen by over half of the part-time lawyers. Nearly 8% chose health reasons. Over a third strongly agreed or agreed that they would not be able to do paid work at all as a lawyer unless they could work part-time. Nearly a quarter disagreed or strongly disagreed with the statement that they were paid the same on a pro-rata basis as someone at the same level working full time. Most legal executives also chose the carer answer first (79%), work/life balance second (36%), and 2 legal executives (14%) included 'To ease into retirement'.

Nearly 87% of part-time lawyers strongly agreed or agreed that the part-time arrangements had worked as intended, most (78%) strongly agreed or agreed their employer was supportive of the arrangement. With respect to the query as to whether their colleagues were supportive of the arrangement, nearly 77% strongly agreed or agreed, while nearly two-thirds thought clients were supportive of the arrangement. The results for legal executives were stronger; nearly 93% of legal executives strongly agreed or agreed that their colleagues were supportive and 71% strongly agreed or agreed that clients were supportive.

For some, however, their work arrangements impacted less positively on them. Over half of the part-time lawyers (nearly 57%) thought their part-time work arrangement had negatively impacted on career paths and opportunities for promotion. Another third were neutral about this possibility. Nearly half strongly agreed or agreed that their part-time work arrangement has negatively impacted the profile and type of work they had been given and a further 18% were neutral about this. Most (83%) thought their part-time work arrangement had negatively impacted on their ability to attend networking events with clients or colleagues, with a further 11% being neutral about this. Over two-thirds strongly agreed or agreed that they regularly miss breaks in order to fit work into the time available. However, nearly two-thirds of the part-time lawyers disagreed or strongly disagreed that their part-time work arrangement had negatively impacted on their ability to undertake continuing professional development. The results for legal executives were the opposite for most of these statements,

with more strongly disagreeing or disagreeing, rather than strongly agreeing or agreeing. However, results were consistent with lawyers in relation to whether the part-time work arrangement had negatively impacted on ability to undertake continuing professional development and regularly missing breaks in order to fit work into the time available. Overall, it appears that legal executives experienced less negative effects of working part time than lawyers.

Figure 2: Existence of part-time and flexible work arrangements in lawyer participants' workplaces

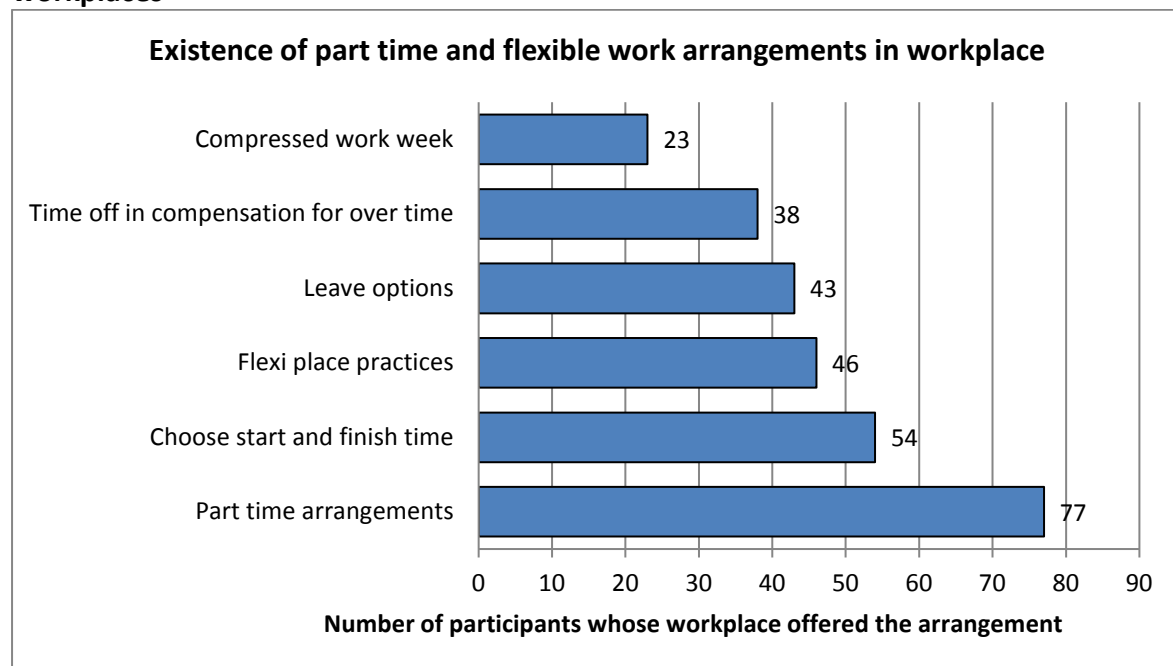
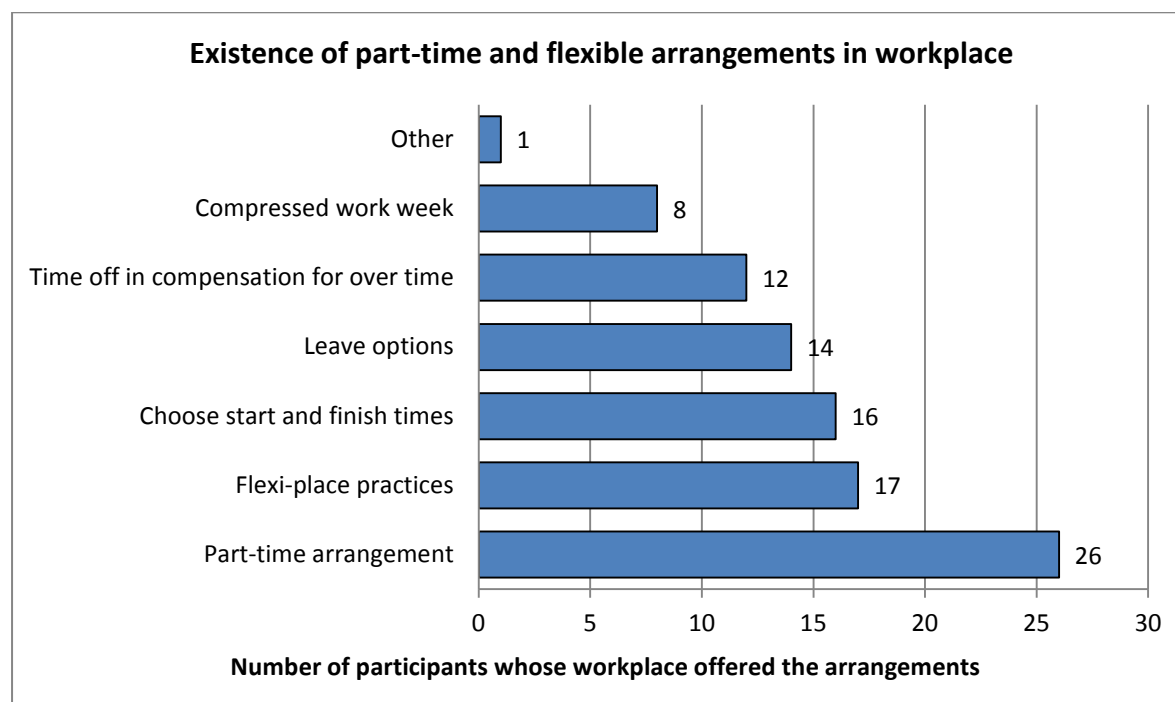


Figure 3: Existence of part-time and flexible work arrangements in legal executive participants' workplaces



13 *Full-time Employees with neither a Part-time nor Flexible Work Arrangement*

Approximately one-third of lawyers were neither part-time nor using flexible work practices. One-sixth of the legal executives were in this category. All of these participants were female. In this case, views were sought about part-time and flexible work practices. These views are interesting because they come from lawyers and legal executives who are apparently objective observers of how such work practices are valued and what effect they have in a workplace. This group may also give an idea of the incidence of actual employer opposition or resistance to part-time or flexible work practices.

(a) *Views on Part-time Work*

The lawyers in this group were evenly split (38%) on whether the employer reacted negatively to people working part-time. Twenty-three percent of lawyers were neutral on the issue. Legal executives were much more equivocal on the issue with the proportions being 20% strongly agreeing and 80% being neutral. More lawyers (42%) disagreed or strongly disagreed that colleagues reacted negatively to people working part-time, than those who strongly agreed or agreed (30%), while approximately 27% were neutral. All of the legal executives were neutral on this issue.

Nearly two-thirds of the lawyers disagreed or strongly disagreed that people working part-time usually have less commitment to their work role, while only 15% agreed and 23% were neutral. A similar proportion of legal executives disagreed or strongly disagreed but a greater proportion 40% strongly agreed or agreed and none were neutral. There were more lawyers

(69% strongly agreeing and agreeing) who thought that people working part-time often miss important work events or communications, than those who didn't (~31% who disagreed or strongly disagreed). A greater proportion of legal executives strongly agreed or agreed (80%) with the above statement. Thirty-eight percent of lawyers disagreed or strongly disagreed that they could arrange to work part-time with the current employer if this was wanted, whereas 22% strongly agreed or agreed. Another 38% were neutral. Figures for legal executives were very similar on this issue.

When asked why they were not currently working part-time, over half (58%) of these lawyers indicated that working part-time was not feasible due to the requirements of the lawyer's role and the same number indicated it was unlikely the employer would approve a request to work part-time. A larger proportion (80%) of legal executives gave the same responses. Close to half of lawyers (46%) also responded that they were not interested in working part-time, while only one of the legal executives did this. Just over a third of the lawyers, stated working part-time was not feasible due to the impact on household income while 40% of the legal executives responded in this way. More than half (54%) of lawyers were concerned that working part-time would have negative consequences for status and career progression opportunities and over a third said working part-time would make her feel disconnected from the workplace. The proportions for legal executives for these questions were slightly different, at 40% - negative consequences for status and progression, and 20% for feeling disconnected.

(b) Views on Flexible Work Arrangements

Nearly two thirds of the lawyer participants strongly agreed or agreed that women need more flexibility in their work arrangements than men. Only 11% disagreed or strongly disagreed, while nearly 27% remained neutral. A greater proportion of the legal executives strongly agreed or agreed 80%, while one (20%) disagreed. Forty-two percent of lawyers disagreed or strongly disagreed that the employer reacted negatively to people using flexible work arrangements, while 34% strongly agreed or agreed. Nearly a quarter remained neutral. A similar proportion of legal executives disagreed (40%), the same proportion was neutral and 1 (20%) disagreed. The lawyer group was divided equally on whether colleagues react negatively to people using flexible work arrangements (35%), with nearly 31% remaining neutral. The legal executives were more equivocal, with most (80%) being neutral and one (20%) agreeing. A clear majority of lawyers (69%) disagreed or strongly disagreed that people using flexible work arrangements usually have less commitment to their work role, while only a small percentage (15 %) agreed and the same number remained neutral. A slightly smaller proportion of legal executives strongly disagreed or disagreed (60%) with this, while one (20%) agreed and the same proportion were neutral.

Slightly more of these lawyers (42%) disagreed or strongly disagreed that people using flexible work arrangements often miss important work events or communication than those who agreed (38.5%), while 19% remained neutral. A majority of legal executives (60%) strongly agreed and 2 (40%) remained neutral. Nearly 62% of lawyers disagreed or strongly disagreed that they could work a flexible number of hours with the current employer if this was desired, while 19% strongly agreed or agreed, and the same number remained neutral. A larger proportion of legal executives (80%) strongly disagreed or disagreed. The majority of the

lawyers (65%) agreed or strongly agreed it was possible to access unpaid leave/flexi hours for out of work commitments, while 23% indicated this was not possible and 11.5% gave a neutral response. It appeared less likely for the legal executives to do this, with only 2 (40%) thinking it was possible, 2 (40%) remaining neutral and 1 (20%) disagreeing.

Over a third of the lawyers (39%) strongly agreed or agreed that flexible work practices in their workplace could be used by anyone, not just women with children, while 15% indicated the opposite. The largest number (46%) remained neutral on the issue. Nearly a third of the legal executives agreed, and one (20%) disagreed, while 1 (20%) remained neutral. A majority (58%) strongly agreed or agreed they could access sick/special leave if needed to care for others, 15% disagreed or strongly disagreed, and over a quarter remained neutral. Similar responses were made by the legal executives.

These participants were asked their reasons for not having a flexible working arrangement. Over half of the lawyers (57%) said it was unlikely their employer would approve a request for a flexible working arrangement while nearly as many (54%) indicated a flexible working arrangement was not feasible due to the requirements and expectations of their role. A much larger proportion of legal executives (80%) indicated it was unlikely their employer would approve and all of the legal executive respondents said this was not feasible because of their role. Forty-two percent of the lawyers were concerned that a flexible working arrangement would have negative consequences for status and career progression, as were a similar proportion of legal executives (40%). To nearly 31% of the lawyers, a flexible working arrangement was not feasible due to the likely impact on household income, while a larger proportion of legal executives (40%) indicated this. Twenty-three percent of the lawyers indicated that they were not interested in a flexible working arrangement, but no legal executives chose this option.

Appendix Six

Employees in Prime Child Caregiving Age

The responses of employee participants in the prime caregiving age range (24-49) were analysed separately. Ninety-two participants were in this subset, 78% of those within the employee subset. Eighty seven participants (94.6%) were female and five (5.4%) were male. The average age of the subset was 36.5 years.

Most within this subset were married or in a civil union or de facto relationship (91.3%). Forty-two percent contributed 40-59% of their household income, with a further 25% contributing between 20-30% of total household income.

The average hours worked per week by this subset ranged between nine to 60 hours, with the average of these average hours being 34.8 hours. The chosen working hours of the group ranged between nine and 50 hours, with the average of chosen hours being 30.2 hours.

A majority had taken a career break, with 43.1% having taken one break and more than half having taken two. A majority (55.4%) also intended to remain working in the law for the remainder of their professional careers, although 40% were unsure and roughly 5% did not intend to remain working in law.

All of the 90 who answered the question directed at permanent/temporary work had a permanent working arrangement.

A significant majority (91.1%) reported that part-time working arrangements were available at their work place, but a minority (21.7%) did not consider it to be easy to work part-time at a senior level.

A minority (40.2%) also did not consider it be easy to use flexible working arrangements at a senior level. The most common flexible working arrangements available at employees' places of work were:

- Ability to choose start/finish times (58.7%).
- Leave options (58.7%).
- Flexi-place practices (51.1%).
- Time off in compensation for overtime (47.7%).

1 Prime Child Care-Giving Age Participants with a Flexible Work Arrangement

Slightly more than a quarter of the participants were using a formal or informal flexible working arrangement. Participants had used flexible working arrangements from between less than one year to 10 years. Nearly two-thirds reported they were able to use a flexible working arrangement from the outset, a quarter had been unable to do so, and 12% of the respondents were unsure. As was the case with the larger subset of all participants (34) with a flexible working arrangement, more than one-half had not based their request for a flexible

working arrangement on legislative provisions and a minority (12%) had been refused the opportunity to use a flexible working arrangement.

The most frequently occurring types of flexible working arrangements reflected the most frequently occurring within the larger total flexible working arrangement subset. They were (in order):

- Ability to choose start and finish time (64%).
- Ability to take time off in compensation for overtime (64%).
- Flexi-place practices (48%).
- Leave options (20%).
- Compressed work weeks (4%).
- Other (4%).

Nearly two-thirds of the participants had two or more flexible working arrangements.

Reflecting their greater likelihood of having child caring responsibilities, 60% indicated that they were using a flexible work arrangement because of their responsibility as a carer for others, compared to 52.9% of all employees having a flexible work arrangement. Slightly more than half selected achieving a work-life balance as their reason for using a flexible working arrangement, compared to 55.9% of all employees with a flexible working arrangement. As was also the case with employees with a part-time working arrangement in this subset, a majority (84%) reported that they disagreed or strongly disagreed with a statement to the effect that they would not be able to do paid work at all if they did not have a flexible working arrangement.

This subset of employees' views on the positive and negative aspects of having a flexible working arrangement largely reflected those of the larger subset with a flexible working arrangement. Thus, significant majorities either agreed or strongly agreed that their employer was supportive of the arrangement (76%), as were their colleagues (64%). Notably, however, these majorities were smaller than those of participants with part-time working arrangements who were asked similarly phrased questions. Consistent with the larger flexible working arrangement subset, this group of employees appeared to be less certain of whether clients were supportive of the arrangement: Nearly three-quarters selected the neutral option, with 28% agreeing or strongly agreeing.

Most within the subset agreed or strongly agreed that overall their part-time working arrangement had worked as intended (84%). Most also disagreed or strongly disagreed that their arrangement had negatively impacted on their ability to attend networking events with clients or colleagues (62.5%), their career path and opportunities for promotion (68%), their ability to attend networking events with clients or colleagues (62.5%) and their ability to undertake continuing professional development (80%).

2 *Prime Child Care-Giving Age Participants with a Part-Time Work Arrangement*

Forty-five employees in the subset (48.9%) were working part-time, which equates to 86.5% of the total number of 52 part-time employees. The responses of part-time employees within

the subset largely reflected those of the larger subset of part-time employees. Thus, most in this subset (75.6%) had not based their request to work part-time on legislative provisions, and a minority (11.1%) had been refused the opportunity to work part-time.

All but one of the employees in this subset indicated that they were working part-time due to their responsibility to care for others, compared to 84.6% of all part-time employees. More than half gave this as their only reason for working part-time, with a further 42% indicating that a further reason for working part time was to achieve a work-life balance.

As was the case with the larger subset of all part-time employees, a significant number (95.6%) agreed or strongly agreed with the statement, "Working part-time helps me balance family commitments". A majority also indicated that they agreed or strongly that that working part-time helped them balance their non-family life commitments (47.8%). Despite these acknowledgements of the benefits of working part-time, a majority disagreed or strongly disagreed that they would not be able to do paid work at all if they could not work part-time (57.7%).

This group of employees' views on the positive and negative aspects of working part-time also largely reflected those of the larger total part-time subset. Significant majorities either agreed or strongly agreed that their employer was supportive of the arrangement (82.3%), as were their colleagues (82.2%). A smaller majority agreed or strongly agreed that their clients were supportive of the arrangement and clients (64.5%). Most agreed or strongly agreed that overall their part-time working arrangement had worked as intended (88.8%). Most also agreed or strongly agreed that they were paid the same on a pro-rata basis compared to someone else at the same level who did not have a part-time working arrangement (64.4%) Most disagreed or strongly disagreed that working part-time had negatively impacted their ability to undertake professional development (64.5%).

However, many agreed or strongly agreed that working part-time had negatively impacted their ability to attend networking events with clients or colleagues (69.8%). A range of responses were given to a statement directed at whether their part-time working arrangements had had a negative impact on their career path and opportunities for promotion: one-third of selected the neutral option, nearly half agreed or strongly agreed and roughly 20% disagreed or strongly disagreed. A range of responses were also given to a statement focusing on whether their part-time working arrangements had negatively affected the profile and type of work that were given: 42.2% agreed or strongly agreed that it had; 22.2% selected the neutral option and 35% disagreed or strongly disagreed. A significant majority (80%) agreed or strongly agreed that they regularly missed breaks in order to fit their work into the time available to them.

3 Prime Child Care-Giving Age Participants with neither Part-time nor Flexible Working Arrangements

Twenty two of the prime child care-giving age employee subset (23.9%) were using neither a part-time or flexible working arrangement, 68.8% of the total of 32 participants in the larger subset of all those without a part-time or flexible working arrangement.

Interestingly responses within the prime child care-giving subset indicated a slightly more negative attitude to part-time working arrangements than did the larger subset without part-time or flexible working arrangements. For example, 45.5% agreed or strongly agreed with the statement that their employer reacted negatively to people working part-time, compared to 37.6% of all those without part-time or flexible working arrangements. Slightly more than a third of this subset also agreed or strongly agreed with the statement that their colleagues reacted negatively to people working part-time, compared to 25.1% of all participants without part-time or flexible working arrangements. However, the reasons given by the prime care-giver subset for not working part-time largely reflected those given by the larger subset without part-time or flexible working arrangements.

Responses from the prime child care-giving subset also indicated a slightly more negative attitude to flexible working arrangements than did the larger subset without part-time or flexible working arrangements. For example, 40.9% agreed or strongly agreed with the statement that their employer reacted negatively to people using flexible working arrangements, compared to 34.4% of all those without part-time or flexible working arrangements. Similar to above, slightly more than a third of this subset agreed or strongly agreed with the statement that their colleagues reacted negatively to people using flexible working arrangements, compared to 31.2% of all participants without part-time or flexible working arrangements. One further area where there were differences between this subset and the larger subset was whether flexible working practices in participants' workplaces can be used by anyone, not just women with children. Seven of the subset (31.8%) agreed or strongly agreed with this statement, compared to 40.7% of the larger total subset without part-time or flexible working arrangements.

Appendix Seven

Employers

Out of 138 responses to the survey, there were 20 responses from employers. Within this employer cohort, and notably distinct from the respondent group as a whole, the gender split was almost equal; 55% of employers (11) identified as female and 45% (9) identified as male. The age of the employers ranged from 32 to 74 years of age, with a mean of 48.65 years and a median of 46.5 years. All but three of the employers identified as being of New Zealand European ethnicity. Of the other three employers, one identified as Asian, one identified as European, and the third stated 'Other' as their ethnicity. There were no Māori employer participants. In terms of the practicing experience of employer participants, this ranged from a high of 47 years to a low of 8 years, with a mean of 21 years. Out of the 20 employers, 18 were located in Christchurch, and two were located on the West Coast.

Interestingly, each of the 20 employers participating in the survey had a part-time and/or flexible working arrangement. Seven worked part-time and 13 had flexible working arrangements. All of the seven part-time employers noted they also had flexible working arrangements. Perhaps because of this circumstance, many of the employer responses appeared to be in light of the participant's own individual experience and circumstances, rather than a perspective on behalf of the employer generally.

1 Employer perspectives on the benefits and drawbacks of part-time and flexible work arrangements

Employer participants were asked to identify the benefits and drawbacks of part-time and flexible work arrangements.

In terms of **benefits**, benefits of part-time and flexible arrangements which accrued to the employer and were identified by more than one employer were as follows:

- Increased efficiency, productivity and engagement (20% (4))
- Happier staff and workplace (20% (4))
- Increased ability to retain good staff (15% (3))
- Work satisfaction for employees involved (10 % (2))

Other benefits to the employer of part-time and flexible working arrangements included that the employer only needed to pay for the hours that the employee was actually needed, that they enabled flexibility for employees to see clients outside normal business hours, that there was better access to the workplace for capable employees, that there would potentially be a wider pool of applicants for a position, that such employees were willing to go the "extra mile" and that the workforce would be more diverse. One employer also identified "legal compliance" as a benefit, which possibly meant that such arrangements enabled the employer to meet its obligations under the Human Rights Act 1993 and the Employment Relations Act 2000. Another noted that "people on them can deal with things in a more responsive manner," which perhaps referred to people on flexible work arrangements being available and able to engage with work issues when not at the workplace. One employer more

pessimistically noted that “benefits arise for the employee but not so much the employer” while another noted that there were no benefits for employers of part-time or flexible work arrangements.

Some responses focused more on benefits to the employee, reflecting the fact that a number of employers had their own individual part-time or flexible work arrangements. These included the following:

- Ability to spend quality time with children (15% (3))
- Greater flexibility/control (15% (3))
- Better work/life balance (10% (2))
- More time to do other things 10% (2)

Other identified benefits to the employee of part-time and flexible working arrangements included lower child care costs and more ability to choose childcare arrangements, the ability to maintain two incomes for a household, and lower stress levels.

In terms of **drawbacks**, again some responses were from the employer perspective, whereas others appeared to be the perspective of employer participants who themselves also had part-time or flexible working arrangements. Drawbacks which accrued to the employer and were identified by more than one participant were as follows:

- Employees being unavailable for clients (25% (5))
- Employees not being available as needed (15% (3))
- Greater cost to business including not getting the full value out of office space and infrastructure (15% (3));
- Delays in getting work done and build-up of work during employee absence (15% (3))
- Impact on other staff who absorb excess work (15% (3))
- Lack of continuity and loss of momentum when someone is away (10% (2))
- Downsides in terms of meeting client expectations and maintaining client contact (10% (2))
- Double handling of a file so that someone understands the file when the part-time or flexible worker is away (10% (2))

Other drawbacks to the employer of employees with part-time and flexible working arrangements included lack of continuity and the risk of losing clients. However, 10% (2) of employer participants indicated that there were no drawbacks which arose from using part-time or flexible work arrangements.

Some responses focused more on drawbacks to the individual employee, reflecting the fact that a number of employer participants had their own individual part-time or flexible work arrangements. These included the following:

- Perception that the employee with a part-time or flexi-time arrangement is not pulling their weight in terms of earning capacity (10 % (2))
- Pressure at work when deadlines are looming (10% (2))

Other identified drawbacks to the employee of working part-time included working at strange hours, stress in juggling things to fit in your day, tiredness, having to complete work when there are other home commitments at the same time, and general travel and time management issues.

Employers were also asked to comment generally on how well part-time or flexible working arrangements operated in practice. The responses to this question illustrated a wide range of views. Three employers (15%) indicated that such arrangements work “very well” or “brilliantly.” Six employers (30%) indicated that arrangements worked “well,” “pretty well” or “fairly well,” with one noting that there needs to be “flexibility evenly spread on both sides” and another noting that “as long as everyone knows who is going to be present when” that it can work well. Four employers (20%) answered that it “depended” as to whether the arrangement worked well. For example, “success depends on the personnel involved. ... Good employees can work from anywhere, anytime...”. “They can work well if implemented properly, but similarly can also work poorly if not.”

Two employers (10%) were of the view that part-time and flexible working arrangements did not work well, with one noting that they did “[n]ot [work] very well in an industry that services client demand” and another noting that “[t]hey are hard to make work in the context of client demands and a competitive profession.” One employer noted that she was now “a sole practitioner as a result of being unable to negotiate part-time partnership opportunities in my previous firm.”

2 *Employer Knowledge of Relevant Legislation*

Employers were asked what they knew about part-time or flexible work legislation. Five participants (20%) indicated they were fully familiar with the legislation, one indicated a general awareness, thirteen indicated they knew not much or very little, and one indicated they knew nothing at all about the legislation.

3 *Communication with Employees about Part-time or Flexible Work Arrangements*

Employers were asked how they communicated with their staff about part-time or flexible working arrangements. Just one employer indicated that they had a formal policy in place. Most employers (60%, 12) indicated that discussions were typically face to face, after the issue was raised by the employee, i.e. the employer was “[n]ormally reactive, responding to requests.” In some cases, the employer indicated that this would be followed up by a written agreement noting what was agreed. Just one employer indicated that they did not communicate with staff about part-time or flexible arrangements.

4 *Employer Perspectives on the Impact of Part-time and Flexible Work Arrangements on Employees’ Career Prospects*

Employers were asked for their views on the impact of part-time or flexible work arrangements on an individual’s career prospects. The responses to this question essentially fell into two groups – either identifying some impact, or identifying no impact. Nine employers (45%) said part-time or flexible working arrangements had significant or at least some impact

on employees' career prospects. Three of these participants noted that it was difficult to attain equity partnership while working part-time. One noted that "[i]t is harder for senior staff to adequately handle files commensurate with their position, if there are gaps in their week." Three others noted that part-time and flexible arrangements "restrict opportunities," "limit prospects" or "make it more difficult to progress." One noted that such arrangements "make you appear more easily disposed of" and another noted that "[t]he larger the firm the bigger the negative impact." On the other hand, and in contrast to these negative views, seven employers (35%) said that part-time or flexible working arrangements had no impact on employees' career prospects. One employer said they didn't know if there was an impact.

5 Impact of Canterbury earthquakes on approach to part-time or flexible arrangements

Finally, employers were asked how the Canterbury earthquakes had affected their approach to part-time or flexible working arrangements. Employers were asked to indicate "whether any changes have become permanent." Eight employers (40%) indicated that the earthquakes had not had any impact, or the question was not applicable. A further three employers suggested there was no change in approach but they did also go on to indicate that such arrangements might be seen as "more normal now" or that there might be recognition of "a greater need for them." Two participants referred to the importance of family in their comments, with one noting that "both employers and employees are more accepting of part time or flexible work arrangements ... both accept that family etc has to come first." Two other participants referred to their own personal circumstances and an associated need to work part-time or flexibly. Five employers identified a link between the earthquakes and a change in employer attitudes to part-time and flexible arrangements. For example, "we agreed to staff reducing their lunch hour (at their request) as there was nowhere to go etc. That arrangement has become permanent for those who wanted it to continue." And, "remote access [is] now set up and everyone is more used to [it] so it's easier to do." And "people have become more open to flexible arrangements - ie work can be done anywhere and not within traditional work times."