

EMCC case studies

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Impact of the crisis on the UK commercial law sector

The commercial legal sector in the UK was incredibly successful before the recession. It expanded on a steady stream of mergers and acquisitions, private equity and leveraged finance. Not only is this type of work the most profitable for law firms but it also feeds complementary work to other practice areas such as competition, tax, employment and pensions legislation. According to the Law Society, the fee income of the 100 largest law firms reached a record GBP 14 billion (approximately €15.7 billion) in 2007/2008, making a contribution of 1.5% to the UK's GDP according to the City of London Law Society. In the last ten years earnings have increased 57% from GBP 5.9 billion (approximately €9 billion) in 1998/1999 to GBP 14 billion (€15.7 billion) in 2007/2008 (IFSL Research 2009). In 2007, the sector employed 320,000 people in the UK, including 82,557 solicitors in the private practice.

However, the collapse of Lehman Brothers in September 2008 shook the legal sector to its core, particularly because of the strong link between the legal services sector and the financial services sector (Eurofound 2009a). The areas of legal practice most affected have been finance and property while insolvency/bankruptcy and restructuring have provided something of a buffer for falling corporate activity. Overall, however, the City of London Law Society reported in the summer of 2009 that these areas of practice could not make up the shortfall. Leading firms such as Eversheds, Herbert Smith and Lovells reported a decline in partners' earnings of up to a third for the 2008–09 financial year. In 2009, newspapers were reporting that more than one in ten of the country's employed solicitors were at risk of losing their jobs (The Times, London, 2009a). The number of associates and support staff laid off has been unprecedented for this sector and even partners are thought to have been included in the overhaul. Based on data from the top 200 law firms, The Lawyer reported that a total of 4,263 UK-based employees were made redundant in this sector between autumn 2007 and April 2010 (The Lawyer UK 200, 2009). Clifford Chance, the world's largest law firm, was one of the first firms to launch a redundancy programme in the UK, cutting 80 fee-earners from its London office (Financial Times 2009). Allen & Overy, Britain's fourth-largest law firm, cut 450 jobs worldwide by the end of the 2009 financial year. Redundancies included 47 partners and 200 fee earners, roughly half of them in London, and a similar number of support staff (Financial Times 2009). The city law firm Simmons & Simmons cut 91 jobs at the beginning of 2009, an increase on the firm's initial announcement that 69 jobs were at risk (Legal Week 2009a).

It should be noted that statistics published by the Law Society of England and Wales show a continued rise in the number of private practice solicitors during this period, reaching a total of 85,128 in July 2009. This might suggest that those most affected by redundancy programmes were administration and support staff rather than legal professionals, and the statistics may also be influenced by the fact that trainees are accepted onto training contracts two years ahead of joining their firms.

Table 1 provides an overview of the personnel measures that law firms have used to adapt and deal with the economically difficult environment

Table 1: *Measures implemented by top law firms*

Firm	Job cuts	Pay freeze
Clifford Chance	Yes	Yes
Allen & Overy	Yes	Yes
Linklaters	Yes	No
Freshfields	Yes	Yes
DLA Piper	Yes	Yes
Lovells	Yes	Yes
Slaughter and May	No	Yes
Eversheds	Yes	Yes
Herbert Smith	No	No
Ashurst	Yes	Yes
Simmons	Yes	Yes
Norton Rose	No	Yes

Source: *Financial Times* 2009

The majority of law firms have had to make staff redundant (particularly young junior associate lawyers and back-office staff), place employees on a reduced working week and defer training contracts. In some cases, flexible working schemes followed redundancy programmes and as a result were not received positively. In firms such as Norton Rose and Salans, short-time working was introduced as a way of avoiding redundancies. Lawyers working in this sector had enjoyed very high job security in the UK before the crisis, according to a Norton Rose HR representative, and this was traditionally a safe and recession-proof sector. City law firm normally rely on their international networks for stabilisation and substitute corporate work with restructuring and insolvency mandates during a downturn. These two important hedges were less effective in this crisis because the downturn was global and the trend for simpler pre-packaged administrations meant there were fewer big, complex insolvencies and restructuring cases with a lot of follow-on litigation to generate meaningful fees for law firms.

Purpose of the study

Norton Rose LLP, part of the Norton Rose Group, has been one of the few law firms in the UK that did not make staff redundant. Instead it launched a one year ‘flex scheme’ in May 2009 that allowed the firm to either put volunteer partners and salaried staff on a four-day week for an agreed period at 85% of their normal salary, or to offer a sabbatical of between one and three months at 30% of their pay. ‘Flex’ employees were promised that their annual income would not drop by more than 20% and that all their employment benefits would remain the same. For the initiative to succeed, it was decided that at least 75% of staff would need to sign up for the scheme. In 2009, staff in the London office voted overwhelmingly (96%) in favour of the scheme (Norton Rose Annual Report, 2009). Similar levels of support came from staff in the international offices. The objective of the flex scheme was to avoid redundancies and to phase the scheme out as soon as it was no longer required – in fact, the scheme was ended three months earlier than first agreed. It has been widely praised in the industry and the media for its effectiveness in saving jobs and adapting to market conditions and won several awards, such as the FT Innovative Lawyer Awards, Legal Business Awards, The Lawyer HR Awards and the RollOnFriday UK Firm of the Year 2010 award.

This case study focuses on how the flex scheme was applied to staff in the UK’s London office. The aim is to assess the effectiveness of the programme in keeping staff in employment and maintaining the company’s viability in economically

difficult times. Specific emphasis is given to the innovative elements of the scheme and the role of communication between management and employees in a sector where employee representation has traditionally been absent. Due attention is paid to employer-employee communication throughout the inception and delivery phase of the programme and the adequacy of the scheme to meet employers' and employees' needs during the downturn and subsequent recovery.

Company profile

Norton Rose Group is a leading international legal practice that offers a full business law service from thirty offices across Europe, the Middle East and Asia Pacific. In the EU, the company is present in the Netherlands, Greece, Belgium, Germany, Italy, France, the Czech Republic, Poland and the UK.

Its five key areas are:

- financial institutions;
- energy;
- infrastructure and commodities;
- transport and technology.

Much of the firm's business is connected to the financial markets (the largest practice groups by number of staff are corporate finance and banking). According to the group's 2009 annual report, in April 2009 the company employed 2,317 people worldwide, a growth of 6% compared to the previous year, and had 262 partners. Roughly 1,100 staff work in the London office, approximately half of them lawyers.

In 2008 Norton Rose started to feel the effects of the crisis. Table 2 shows that in 2009 the operating profit was down by 17% on the previous year even though the business grew, showing a 6% increase in reported turnover (Norton Rose Annual Report 2009). The financial results reflect difficult trading conditions in the legal industry as a whole.

Table 2: *Impact of economic crisis on company performance (in € millions)*

Indicator	2009	2008	Change % (2009-2008)
Turnover	322.3	305.7	+6%
Operating profit	80.5	97.5	-17%
Profit before taxation	78.2	96.7	-19%
Operating staff costs	145.9	119	+22%

Source: *Norton Rose Annual Report 2009*

Note: Operating staff costs do not reflect the impact of the flex scheme because it was implemented in May 2009 for one year.

Legal and policy context

The options for the introduction of short-term flexible working measures available to a company depend on a wide range of factors. These include the legal framework – issues such as employment protection and social benefits – the industrial relations framework, the policy framework – such as the availability of government support for short-time work and other flexible working measures – and the firm's own circumstances and culture.

In the UK, law firms do not have a strong union presence, collective bargaining procedures or, indeed, any history of industrial action, and employment conditions are governed by local-level arrangements (Eurofound, 2006). At Norton Rose, the company does not have works councils or trade union representation, but three years ago four informal employee forums were set up; one each for trainee solicitors, qualified lawyers, business services staff and secretarial staff. These were to be a means of communicating with staff and to act as a sounding board. Typically 12 to 13 employees sit on each forum and meet four times a year, although this increased during discussions about the flex scheme. The forums do not have any formal rights or obligations.

Other employees working for Norton Rose outside the UK have no representatives. Norton Rose's Brussels office has 24 employees and 17 of its lawyers are self-employed.

The majority of EU Member States have introduced government support for short-time working schemes (Eurofound, 2009b). In the UK, however, the government has argued that wage subsidy schemes similar to those introduced in the UK in the 1970s may create market distortions, and could prove to be very costly given that some companies could afford to retain employees without such subsidies (Department for Business Innovation and Skills, 2010). This is despite the efforts of the Confederation of British Industry (CBI), the UK's main employer organisation, which urged the government to introduce alternatives to redundancy. Such alternatives were believed to include giving employers the option of placing surplus employees on a special form of leave for up to six months. The idea was that a six-month window would reduce salary costs while businesses waited for the economy to recover, at which point they would be able to bring staff back to work quickly.

Despite the lack of governmental support in this area, there have been many examples of UK employers introducing short-time or flexible working patterns in order to retain staff. These have largely been the result of social partner negotiations or company agreements at local level. According to a 2009 Confederation of British Industry study, nearly two thirds of employers in the UK have made, plan to make, or are considering making changes to the way they organise their workforce and working patterns in response to the recession. Employers across all sectors have changed or plan to change work patterns – 55% of employers in professional services, 50% in banking, and the highest proportion, 86%, in the construction sector. The study also shows that nearly one in five employers – 17% – has already implemented short-time working.

Evidence from Norton Rose's Belgian office shows that even when government support is available, companies – particularly professional service companies – do not necessarily make use of them, preferring instead to set up their own, usually more favourable, conditions for their staff. Norton Rose's head of staff in Belgium reports that white-collar employees whose working time was reduced by 20% would have been entitled to a government-funded allowance of €188.82 per month under the 'crisis-time credit' system. It is understood that none of the Norton Rose offices applied for public support for short-time working. Norton Rose paid employees in Belgium 85% of their usual wage in return for a 20% reduction in their working week.

Under UK employment legislation 'short time working' is defined specifically as any temporary period in which an employee's hours of work have been reduced to a level where they are taking home 'less than half their normal remuneration' (CEEMET, 2009). The 1996 Employment Rights Act, Part II, prohibits any shortfall in remuneration which is not agreed either with the employee or stipulated in the employment contract. To offer short-time working as an alternative to redundancies, an employer would therefore first have to seek the agreement of its workforce or their unions. In the case of a law firm in the City of London, such an agreement would have to be made between the workforce and local management. The interests of law firm employees can be represented by local law societies such as the City of London Law Society, but such bodies are principally professional representative bodies for solicitors and law firms and they do not act as trade unions. The 1996 Employment Rights Act states that the decision about whether or not short-time working should be introduced rests with the employer.

According to the UK Government (Directgov, 2010), there is no upper limit for how long a UK-based employee can be put on short-time working as long as the change in hours is authorised either by the employee or by a provision of a worker's contract of employment. Under UK employment law, no notice is required before short-time working is introduced.

However, in 2004 the EU's 2002 information and consultation directive was incorporated into UK law through the Information and Consultation of Employees regulations – ICE. Since April 2008, the regulations have applied to all firms with more than 50 employees. Under the regulations employees can ask their employer to negotiate an ICE agreement with them. However, the regulations only apply if a request to negotiate is made by at least 10% of the workforce, and where a voluntary agreement is already in place the request must be made by a majority of those who vote in the ballot and by 40% of the total workforce. Such formal negotiated agreements under the regulations are extremely rare across all sectors, including the legal services sector, in the UK.

Social contributions in the UK are made as National Insurance payments, usually calculated on the basis of weekly earnings. Short-time working therefore affects a worker's level of National Insurance contributions and where earnings are less than £421 per month (€512 at August 2010) no national insurance is paid. Contributory benefits that depend on National Insurance payments may also be affected, such as state pension, contribution-based Jobseeker's Allowance entitlement, Bereavement Allowance and contribution-based Employment and Support Allowance. Short-time social benefits such as sickness benefit should not be affected by short-time working. Entitlement to non-contributory benefits such as child benefit or severe disablement allowance should not be affected by short-time working.

The rights of employees placed on short-time working include the right to give written notice of resignation and claim a redundancy payment when the employee is put on short-time working either for four or more whole weeks in a row, or for a total of six whole weeks in any 13 week period. However, legal experts in the field suggests that a company could argue against such a forced redundancy if it could show that short-time work was a temporary solution and the employee would be able to return to a full-time position (Eurofound, 2009c).

The employee may also claim Jobseeker's Allowance for the balance of the hours they do not work, but this is a complex legal area that requires further analysis (Financial Director, 2009). In principle, the employee is allowed to take up any other work offer while on short-time working as long as the new job does not run counter to the first employer's interests and the employee is able to return to full-time hours when asked (ACAS, 2009).

The flex scheme at Norton Rose

Rationale behind introducing the short-time working measure

The flex scheme, launched on 1 May 2009, was created to absorb any over-capacity in the workforce over the course of one year. It had the tangible benefits of no redundancy costs. A newly-qualified lawyer laid off from Clifford Chance, for instance, was offered GBP 35,577 (€43,260 at August 2010) on top of notice pay. It was also intended to eliminate costly recruitment difficulties when the economy recovered. Retaining staff through a flex scheme would save human resources time and avoid the need to recruit at the same time as other law firms when sought-after applicants would be in great demand. Keeping the company's talent intact would ensure that there was always sufficient capacity available to take on any amount of work at any time. More intangible benefits included brand enhancement, making the company more attractive to potential new recruits as a demonstrably responsible employer.

Design

Norton Rose already had a flexible working policy before the flex scheme was introduced. By law UK employers must consider any reasonable request for flexible working from parents or carers of children under 16. At Norton Rose the

right to request flexible working was extended to all employees in 2008 and 10% of its staff had taken advantage of such arrangements.

The new scheme set up at Norton Rose was inspired by a very similar initiative set up at international tax specialists KPMG in January 2009. Representatives from Norton Rose established contact with KPMG where staff were being offered two options: a reduction of one day in their working week with a maximum pay reduction of 20% and one week's notice of reduced hours; or sabbatical leave of between four and 12 weeks on 30% pay with four weeks' notice. Staff could volunteer for either or both options (Legal Week, 2009b). To increase uptake KPMG announced that if more than 75% of staff, including partners, voted in favour of the plan then no employee on the flex scheme would suffer more than a 10% salary reduction, instead of the 20% maximum originally proposed. Norton Rose decided to offer similar terms of 85% pay for a four-day working week and 30% pay for sabbaticals of between four and 12 weeks.

The research and design of the flex initiative took place between January and February 2009. The management of it was supervised by the most senior people in the business. The design and implementation process was carried out by the Norton Rose 'flex committee' which included the Group Chief Executive Peter Martyr, Group Chief Operating Officer Kevin Mortell, Group Head of Banking Jeremy Edwards, Group Head of Corporate Tim Marsden, Group Head of Commercial, Real Estate and Disputes Deirdre Walker, Group Chairman Stephen Parish, Group Director of People and Talent Management Andrew McEachern and Head of HR Lak Purewal. The members of the informal employee forums were not part of the flex committee.

Norton Rose actively sought feedback at local level about the way the scheme might be applied and used it to improve internal communication and provide question and answers that addressed employees' concerns. The informal employee forums at Norton Rose were consulted and told about the initiative during the first two months of 2009 before the scheme was formally presented to all employees. The goal of giving advance information was to canvass opinion at an early stage, although the intricacies of the scheme itself were designed by Norton Rose management. During the early stages of the project, a representative from the human resources department attended each employee forum meeting and these discussions helped the flex committee to put together a comprehensive Q&A document that covered all potential issues of concern. This meant that management was well-prepared and staff had confidence that the scheme had been well thought through when it was finally formally announced, even though the forums had no influence over the design and benefit packages of the overall scheme. Good communication also helped to speed up the implementation of the scheme because management was well-prepared with answers for the most commonly-asked questions, particularly during the sign-up stage. As a result, it was decided that three weeks would be sufficient time for the sign-up stage.

Implementation

Flex was a contingent scheme and whether and where it was applied depended entirely on work levels within various practice areas of the firm. Representatives of the company report that in a downturn there are some practice areas that remain recession-proof and continue to perform strongly, and at Norton Rose both its financial services practice and its restructuring arm for banking and dispute resolutions remained buoyant.

Sign-up stage

Staff were informed of flex by a podcast from the chief executive Peter Martyr on 12 March 2009. A dedicated intranet site was developed to provide easy access to information about the scheme. This included a comprehensive series of questions and answers, a calculator that estimated what an individual's salary might be if flex measures were applied, and a calendar of HR clinics and open presentations of the scheme. The signing-up process at Norton Rose was primarily online and uptake could be monitored by the minute. Regular communication about the flex scheme during the sign-up period kept the process alive in the minds of employees. In London, 96% of staff signed up, and there were similar uptake levels in the international offices.

Human Resources set up confidential drop-in clinics to discuss the financial implications of flex and rolled-out a series of open meetings for any member of staff who wanted to attend. It was made clear that the management understood that personal financial circumstances, such as the redundancy of a partner or high mortgage repayments, might prevent some employees from signing up for flex. The great majority of employees were in fact happy to sign up to the scheme because the flex programme seemed to offer job security for the coming year at least. Although employees were given no formal job security, they were reassured by the company's management that the scheme was primarily aimed at avoiding redundancies. This was perceived as a better option than the constant threat of redundancy, even though it meant a reduction in pay. At the time redundancy was a very real possibility, given the number of City law firms then in consultation over redundancies. However, according to the member of the employee forum interviewed for this study, staff were fully aware that the scheme was entirely voluntary. Employees had three weeks in which to consider the flex scheme and decide whether to sign up for it. The scheme could not be applied to anyone who did not agree to have their terms and conditions changed for a period of one year. Once an employee had signed up, the management had complete discretion over who the scheme should apply to, which option should be offered, when, and for how long. There was scope for flexibility, however. In the Brussels office, for instance, the local management initially decided to apply the four-day week in rotation to avoid discrimination and because it was assumed that most employees would prefer to have a Monday or a Friday off. These formal arrangements were soon reviewed, however, as colleagues began to agree days off between themselves.

Implementation

Norton Rose's flex scheme came into operation on 1 May 2009 and applied to all the company's European offices where local legislation permitted and business needs required it. Norton Rose had the option to apply the scheme at any time during the following 12 months to those who agreed to have their terms and conditions changed.

The flex committee met each week for about one-and-a-half hours to decide which teams should have flex measures applied, reviewing activity levels in each department, assessing the amount of work coming in, and drawing upon information from team leaders and the finance department. Interestingly, management representatives reported that the flex committee received as many requests from departments to take them off flex because of high levels of activity, as they did requests to apply flex because work was slow. Whenever skill sets were transferable, employees would be used in other practice areas but, by and large, transfers or internal redeployment were not common because of Norton Rose's high level of specialisation, employing distinctive sets of skills for banking lawyers, corporate finance lawyers and competition lawyers. No internal transfers were reported in the Brussels office. Flex was applied to a mixture of employees, both legal and support staff, where practices were least busy.

Local team leaders had a key role in implementing flex, deciding who the scheme should apply to, which option should be applied, when, and for how long. Management representatives emphasised that this was done according to the workload of each individual team rather than criteria such as productivity or seniority. However, partners were least affected by these measures as their work is considered essential to secure new business and clients. Management representatives and a member of the employee forum interviewed for this study reported that staff were given the opportunity to say which option they preferred. Whenever possible, this personal choice was taken into account. Most importantly, four weeks' notice was given before the start of a sabbatical and one week's notice before a reduction in working time. For those taking a sabbatical, the 70% reduction in salary could be spread over a six-month period.

In some departments it was not practical to put staff on sabbatical due to the highly transactional nature of their work. The employee representative reported that at the core of the flex scheme was the willingness of staff to respond with as much flexibility as the work available required. Staff on a four-day week were sometimes asked, for instance, to work a five-day week and take two days off the following week.

Once signed-up to the 12-month flex scheme, employees had no automatic right to withdraw from it. However, where an individual's personal circumstances had changed, requests to withdraw were always considered sympathetically; no-one wanting to return to their standard hours was refused.

Outcomes and impact

More than 600 flex arrangements were made in the London office during the nine months of scheme's operation. In Brussels, only two of the office's 24 employees refused to sign up for the scheme.

In the London office some staff had flex arrangements applied to them on the first day that the programme came into force (1 May 2009).

The number of staff on flex arrangements in London at any one time ranged between 550 and 660. The short-time working measure was used more often than sabbatical leave, with three workers taking sabbatical leave to every seven on reduced weekly hours. Between 385 and 462 staff were put on a four-day working week, and between 165 and 198 London staff were asked to take sabbaticals, usually of four weeks. In the Brussels office, none of the employees took sabbaticals although this option was available. As in the London office, staff in the Belgian office were less keen on this option because it would take them out of the office for longer and would bring a higher pay cut. Team managers were also less keen to use the sabbatical option fearing it would reduce the company's flexibility. Sabbaticals, which might involve enrolling on training courses or booking travel and accommodation, could not be cancelled if work picked up. However, where individuals expressed a preference for a sabbatical, this was given where possible.

An overview of how long employees tended to work a four-day week is not available, and nor is there a breakdown of the flex arrangements used by specific teams. It is known that few partners had to reduce their hours because of their role in securing new business and clients. On the other hand, there were entire teams which worked under the flex scheme. The company did not formally monitor how its employees had used their time off. Anecdotal feedback to the Head of HR in the London office suggested that many committed the time to their families and to the pursuit of personal projects, while some used it for training and upskilling.

Levels of use varied significantly during the nine months of the scheme, and the number of employees on flex measures peaked in summer 2009. By the following Christmas, flex levels had dropped to between 200 and 300 arrangements at the London office.

All staff in the London office were taken off flex on 29 January 2010, more than three months earlier than the scheduled end of the scheme in May 2010. Those workers who had planned sabbatical leave were allowed to take it before returning to work.

A topic discussed extensively in the employee forums was whether the end of the scheme would make redundancies more likely. The management stressed that the flex programme had been a guarantee of the company's commitment to keep its staff in employment. The end of the scheme was announced in a podcast from the Group Chief Executive, saying that this was believed to be the right time to return to standard working hours because increased activity across the company had been seen at both a micro and macro level during the fourth quarter of 2009. Norton and Rose's management stress that the intention was always to end flex as soon as possible to get staff back on full salary.

Employees' attitudes towards short-time working have become more positive. In the Brussels office two employees decided to continue working reduced hours for personal reasons. The management also acknowledges that they will consider using the flex system again rather than considering redundancies should the company face economically difficult times in the future. Norton Rose estimates that approximately 100 jobs were saved by the flex programme.

Because company accounts are only currently available for the financial year ending in April 2009, one month after the programme began, it is difficult to judge how much was saved in reduced personnel costs. Norton Rose is currently considering carrying out a staff satisfaction evaluation now that flex has ended. However, early indicators of success include:

Internal indicators:

- An average 93% vote in favour of the scheme by staff in all the company's offices in the UK and overseas;
- The saving of at least 100 jobs;
- No redundancies so far at Norton Rose in response to the global economic crisis;
- An enhanced reputation among the company's associates – in an independent survey carried out by Legal Week in June 2009, 85% of Norton Rose LLP associates said that the way the company had dealt with the recession had enhanced their reputation. The next closest firm in this survey was Slaughter & May with 57%.

External indicators:

- Retaining its place as one of only a dozen law firms in The Times 2009–2010 Top 100 Graduate Employers list;
- Receiving a number of awards, including the Financial Times Innovative Lawyers 2009 Award – Resourcing, for devising and delivering the flex scheme and The Lawyer HR Award 2010, HR Team of the Year, and Innovation in Talent Management & Retention;
- Other awards include the Most Enterprising Law Firm of the Year in the Legal Business Awards 2010, RollonFriday's UK Firm of the Year 2010 and The Lawyer's 2009 Law Firm of the Year.

Giving their reasons for selecting Norton Rose Group as their 2009 Law Firm of the Year, The Lawyer's judges observed:

'Norton Rose has had a breakthrough year, combining impressive growth with a considered response to the turbulent economic climate. Instead of axing staff by the dozen, as many of its rivals have done, Norton Rose gave employees the choice of reducing their hours to save jobs. The flexible working scheme received a hugely positive response, and not just amongst external observers. Norton Rose staff voted overwhelmingly in favour of the plan, with 96 per cent of employees signing up. It remains one of the few large firms to have avoided a damaging redundancy programme.'

Lessons learned and conclusions

Overall, Norton Rose has been widely praised for its innovative and award-winning scheme, particularly in the UK, for the number of jobs it saved.

The available data and interviewees' accounts show that flex helped the company to handle overcapacity well during the downturn, save jobs and bolster employee morale. An overwhelming 96% of staff in the London office voted in favour of the scheme and an average 93% internationally. To date, there have been no reports of adverse effects on the company, although the financial impact of the scheme, and whether it contained costs, will not be quantifiable until the next annual report is published.

The continual monitoring and management of a flex scheme such as that implemented by Norton Rose requires a great deal of time, but it puts a business in a strong position to respond quickly to changing levels of work. If work-flow improves, short-time working measures can be shelved. In the long term, the emotional and financial cost of redundancies is avoided as are the difficulties of recruiting in any subsequent upswing. Flexibility is the key to successful short-time working. The literature shows that short-time work measures can impede necessary structural changes by maintaining employment in declining industries or businesses, particularly if used over long periods of time. Norton Rose only experienced a temporary decrease in activity levels, but the study highlights ways in which companies can monitor their activity levels during short-time working and be flexible about how they adapt working time to market changes.

At a macro-level, the literature shows that the longer an economic crisis lasts, the less effective short-time work measures are in counteracting negative labour market effects (Eurofound, 2009b). In most UK companies, employees will be able to revert to their former hours once the economy improves. Unfortunately no information is available on the number of staff at Norton Rose who wished to stay on a four-day week after the flex scheme ended. The podcast announcing the end of the flex programme did mention that if anyone wanted to carry on working a four day week their request would be considered, although it should be noted that employees at Norton Rose could have made the same request before flex. What perhaps will make a difference is that employees now have experience of a four-day week and know whether it is an option they can afford.

The HR in Law Employee Benefits Key Issues Survey 2010 suggests that staff engagement is the biggest issue for human resources teams in the legal sector, with around one third of employers saying that this was of ‘great concern’ to them. Voluntary take-up of flex at Norton Rose was exceptionally high, and communicating with its staff is something Norton Rose feels they did well. Company representatives stress that one should never underestimate the importance of the initial communication, how it is pitched, how often it is repeated, and its permanence. Equally important is that staff trust the management to apply a short-time working scheme fairly and not as a measure of individual performance. Flex included partners which added to the credibility of the scheme in the eyes of staff.

Nevertheless, due to the lack of governmental support for short-time working in the UK and the lack of collective bargaining in the legal sector in the UK, several elements were left to the discretion of the employer, including the information timeline and employee consultation. Communication with members of the employee forum in the early stages of Norton Rose’s scheme was important in gathering views about their concerns as well as shaping the Q&A resource offered with the details of the scheme. Participation in the scheme was voluntary, but local management retained some discretion over which options were available to which employees. This depended on the workload of each office, although managers always tried to accommodate individual preferences.

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Annex: Consulted individuals

Name	Institution	Position	Date of consultation/interview
Lak Purewal	Norton Rose (London)	Head of HR	15 April
Sue Botten	Norton Rose (London)	HR Manager	15 April
Sarah Webster	Norton Rose (London)	Senior PR Manager	15 April
Karen Fielding	Norton Rose (London)	Senior Associate	28 April
Michael Jürgen Werner	Norton Rose (Brussels)	Head of Brussels office	27 May