

## Making Flexibility Work: A Case Study

The arguments for flexible work arrangements in law firms are many. Flex time can provide a firm with a substantial advantage on three fronts: attracting and retaining women during their child-raising years; retaining talented attorneys who do not desire partnership, and finally, the ability to ease partners as they get closer to retirement.

Creating workable flexible arrangements faces three major challenges:

1. The tension between part time revenues with full time overhead
2. Availability, resources and team work necessary to effectively serve clients.
3. Internal communication and perception of fairness.



by Karen MacKay, MBA, CHRP  
President and **Edward H. Flitton**<sup>1</sup>

With the best of intentions there have been failed attempts in many firms. At worst, valuable and productive partners see themselves subsidizing part time attorneys who are not available when the chips are down.

When this happens firms abolish the flex time arrangements in order to avoid losing full time partners.

### Profile of our Case Study

**Firm:** Holland & Hart

**Headquartered:** Denver, Colorado

**Size:** 350 attorneys, 13 Offices

**Track Record:** Flex Time policies have been working since 1990

**Partners on Flex Time:** 16 (13 women, 3 men)

**Associates on Flex Time:** 14 (all women)

**Contract Associates:** 13 (all on flexible arrangements, paid hourly, some work at home)

### The Policies

There are two written Flex Time Policies, one for partners and one for associates. Both policies require the attorney desiring a flex time arrangement to submit a written plan which includes proposals for the percentage of full time commitment desired, a typical schedule, an economic analysis including proposed compensation, and any special

arrangements proposed to reduce overhead. Such special arrangements can include:

- taking an interior or smaller office,
- office sharing,
- reducing benefits, and
- reduced secretarial support.

The policy requires the plan demonstrates “a reasonable opportunity for the continued professional development of the requesting attorney. The partner plan includes commitments to generate meaningful work in quality and quantity to allow continued professional development”.

The policy states that no flex time arrangement should be designed such that it is subsidized by the firm – it must stand on its own economics.

### **The Gatekeeper**

The policy for associates and contract associates is managed by a Flex Time Partner. This role has historically been held by a female partner who is or has been on a flex time program and who is sufficiently concerned about both the success of the program and the profitability of the firm to be an effective gatekeeper.

The Flex Time Partner helps the applicants prepare the proposal, and especially the economic analysis. The proposal must be approved by the applicant’s Practice Group Chair, the Flex Time Partner and the Managing Partner.

The economic analysis first estimates revenues to be generated by the partner (proposed billable hours x rate x realization rate). In order to determine overhead applicable to the attorney, the firm’s overhead is divided into a fixed and a variable component. *Fixed overhead* included

- rent,
- malpractice insurance and
- other matters which will fully apply regardless of the time worked.

*Variable overhead* includes

- secretarial costs,
- office supplies etc.

The ratio of fixed and variable costs vary from office to office; however, total margin ranges from 40% to 55%. The overhead charged to the applicant is equal to 100% of the fixed overhead and the percentage of the variable overhead which is equal to the percentage of the proposed billable hours to the expectation for a full time partner.

The policy does not provide for a payback to the firm if subsidization occurs. However, when that occurs, it is taken into account in the next compensation round for partners. The partner can adjust her percentage midway through the year and is encouraged to

reduce her percentage if shortfalls are occurring. When a flex time partner's billable hours exceed the percentage agreed to by more than 5%, a year end adjustment is made.

The Flex Time Policy for Associates is essentially the same in terms of procedure. However, the Policy addresses several issues. The first is the belief that a new attorney needs a "period of immersion" in order to foster professional development. For that reason, part time status for a first year associate is granted only under extraordinary circumstances. Flex time arrangements are difficult to sustain for junior associates because of lower rates and full overhead allocation.

At time of writing there are no first year associates with flex time arrangements and only four in the next three classes. By contrast, there are ten senior associates in the program. Most associate arrangements are designed around billable hours at the 80% level or more and partner arrangements range from 90% to 65% of normal billable hour expectations.

### **Flexibility before Retirement**

Convincing senior partners near retirement to adopt a flex time arrangement has taken some time. Senior partners don't want the stigma of the "mommy-track." Some argue that a flex time arrangement results in an immediate reduction in compensation, where it would otherwise be delayed for a year or two under the firm's retroactive system of partner compensation structure. However, they are becoming convinced that the reduced stress resulting from lower billable hour expectation balanced with the assurance of increased compensation if they exceed that expectation.

These arrangements are made directly with the Managing Partner rather than the Flex Time Advisor (to her great relief!). Their "units" or "points" are shown on the partner roster at the 100% level. Thus they avoid the dispiriting decline in such awards over the years.

### **Conclusion**

For associates and younger partners, the greatest challenge is to achieve the flexibility to meet the needs of the client projects. Making it work requires open communication and team work in the practice group. Making it work at home requires commitment and flexible child-care arrangements. In part, it is a question of attitude and ability to develop the kind of child care arrangements which allow the necessary responsiveness.

This challenge becomes particularly serious where flex time associates are clustered in one office or practice group. The best flex time associates have the tools to stay connected (Blackberry or other similar PDA), can move easily between work and home, and possess an uncanny ability to intelligently communicate with a client while fixing dinner. Those who have trouble achieving success are those who are unable to move smoothly between these roles and who are too rigid with their time.

Overall, the flex time program has been very successful for Holland & Hart which has allowed it to attract and



keep the best and brightest while keeping senior partners engaged while successfully facilitating succession.

1. Co-Author - Edward Flitton, of Counsel, performs mediation services from **Holland & Hart**'s Colorado office.

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