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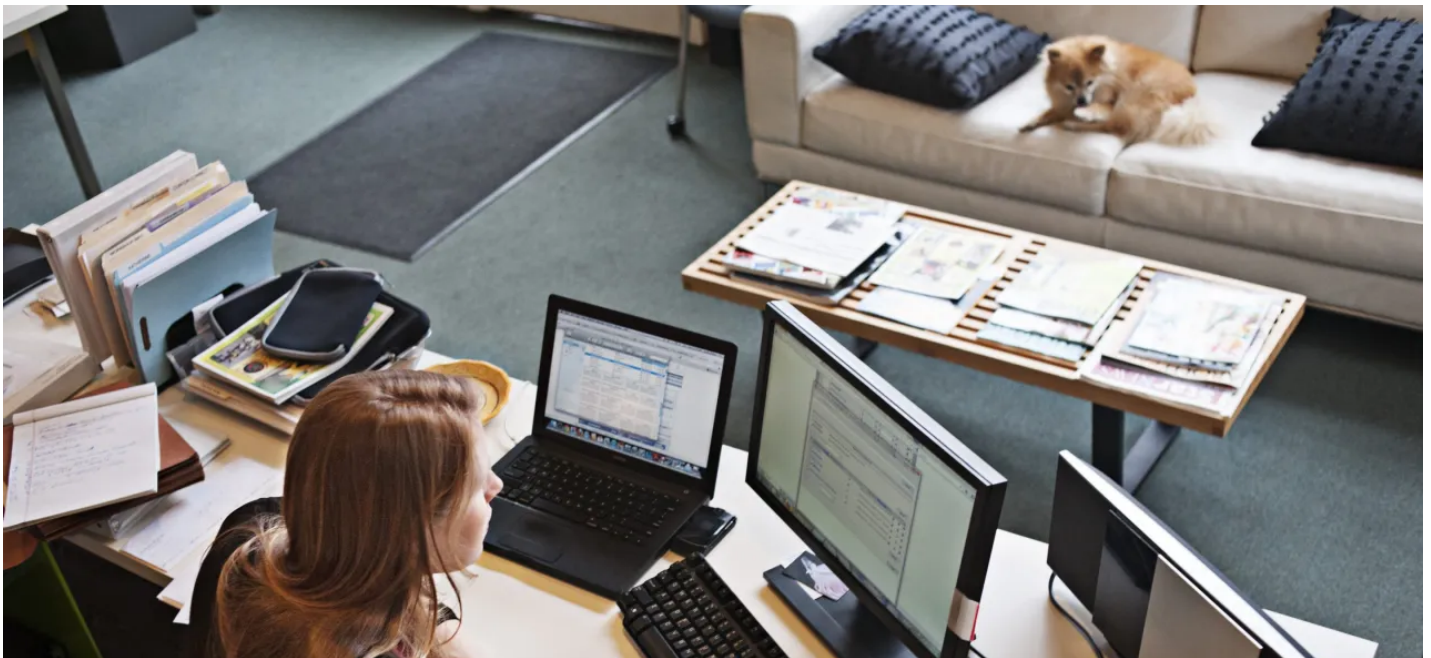
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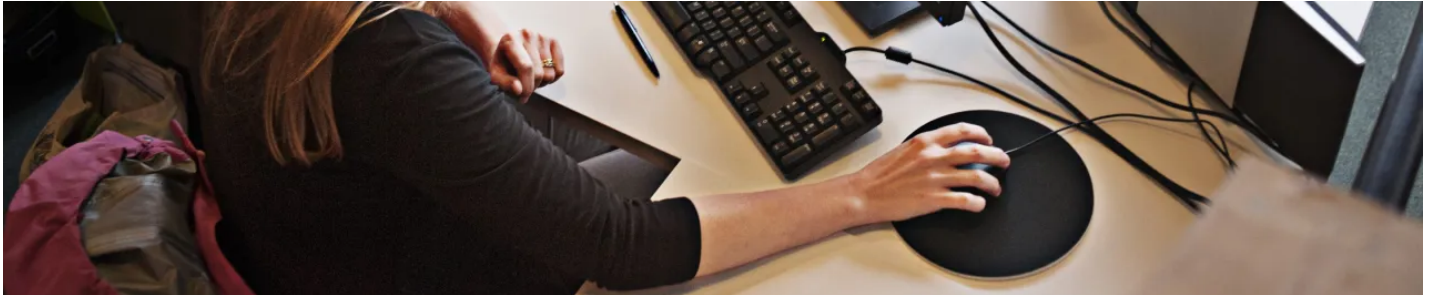
SUCCESS · REMOTE WORK

\$178k-a-year manager at the U.K.'s financial regulator ordered back to the office by judge, who agreed WFH is detrimental to her work

BY PRARTHANA PRAKASH

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A U.K. judge ruled against an FCA employee who wanted to work permanently from home.

REZA ESTAKHRIAN—GETTY IMAGES

Employees wanting to work from home and employers wanting staff to return to the office have sparred since the COVID-19 pandemic—and there’s been **no definite answer** on what’s truly better for everyone.

But while the jury might still be out on the matter, a judge in the U.K. has pointed to clear benefits of working in-person in promoting “rapid discussion” and “non-verbal communications” in a recent ruling.

Elizabeth Wilson had worked at the British watchdog Financial Conduct Authority since 2005, making £140,000 per year (about \$178,000) as a senior manager. She filed a request to permanently work remotely following the easing of COVID-19 restrictions, but her managers rejected the request following which Wilson sued the FCA.

In a December judgment that was made public last week, employment judge Robert Richter ruled that the financial watchdog was “right to identify weaknesses with remote working.”

“It is the experience of many who work using technology that it is not well suited to the fast-paced interplay of exchanges which occur in, for example, planning meetings or training events when rapid discussion can occur on topics,” Judge Richter wrote in **his judgment** of the case, which itself was heard remotely with evidence given in video, according to the *Financial Times*.



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He also added that remote work hampered “the ability to observe and respond to non-verbal communication which may arise outside of the context of formal events but which nonetheless forms an important part of working with other individuals.”

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The ruling is among the first to touch on remote work in the workplace. The topic has been contentious, with the likes of Goldman Sachs [CEO David Solomon](#) dismissing working from home as a “new normal” and trying to bring people into offices like old times. While flexible work arrangements have been [a great enabler](#) for some sections of the labor pool, organizations are still trying to find answers on how remote or hybrid work impacts the productivity and performance of their

employees.

‘Detriment’ of remote work

In December 2022, Wilson, who had strong performance reviews, requested her organization to work entirely remote. Her request was rejected because it’d have “detrimental impact on performance,” Wilson’s manager told her, although the FCA offered other accommodations, including more flexibility in working hours. Following the rejection of her request, Wilson sued the FCA.

The FCA’s employees are required to spend a minimum of 40% of their time in the office (as would’ve been the case for Wilson), or minimum 50% for “senior leaders,” the organization’s employee [handbook states](#).

Although employees in England and Wales don’t have the right to demand permanent remote work unless the contract stipulates it, employers are required to consider the request and refuse it with reason—which the FCA did in Wilson’s case, the judge found.

Her manager said there were tasks such as providing in-person training, welcoming new staffers and meeting junior colleagues which Wilson would be unable to do if remote. The court said that even as technology has made remote work easier to conduct, the quality of Wilson’s work would be “detrimentally impacted” and have a “negative impact on the department” if she worked online for all her time.

“A refusal to grant a request to work from home can be challenged in a tribunal if the decision was made on the basis of incorrect facts. In this case, the employer decided not to agree to the employee’s request to work entirely from home because it considered that this could have a detrimental impact on performance or quality of output,” Alex Bearman, partner at London-based law firm Russell-Cooke who specializes on employment law, told *Fortune*.

“Interestingly, the tribunal seemed to take the view that the employer’s findings that there would be a detrimental impact on performance or quality of output were ‘facts’ which the employee therefore had the right to challenge as being ‘incorrect,’ rather than being matters of judgment which could not be contested. Although the employee was unsuccessful in this case, this is arguably a more employee friendly approach which requires an employer to think more carefully about its reasons for any decision to refuse a request.”

The FCA declined *Fortune*’s request for comment.

Judge Richter said that cases like Wilson’s are likely to continue as employers navigate uncharted waters in the post-pandemic workplace.

“This is a case which raises a key issue in the modern workplace and which will no doubt be the subject of continued litigation,” he said. “The need for staff to provide a physical presence at an office location is a debate which many companies are now engaged in and which the solutions arrived at will no doubt differ considerably from employer to employer, there will not be one solution which will work for all companies or even for all roles within a company.”

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