



**WOMEN'S
CITY CLUB**
OF NEW YORK

Shaping Policy
Improving Lives

wccny.org

Case Study on Fair Work: Flexibility and Predictability in New York City's Retail Industry

BACKGROUND

The Women's City Club of New York (WCC) is a nonprofit, nonpartisan, multi-issue activist organization that is dedicated to improving the quality of life for all New Yorkers. WCC works to shape public policy to promote responsive government through education, issue analysis, advocacy and civic participation. Now in its second century of service, WCC has focused its efforts to empowering women to become more civically engaged.

In 2013, a group of young professional members of Women's City Club of New York (WCC) came together to work on exploring suitable policy "fixes" for the stress and lack of work-family balance for workers in New York City, particularly the stresses faced by its women workers. Former WCC Member Day Piercy, with support from Barbara Allen and Grace Louis, led this effort, which was formalized into WCC's *Task Force on Fair Work*. This task force focused on the issue of making work schedules more compatible with family responsibilities.

While the emergence on a broad scale of contingent work, such as part-time/contract work as opposed to full-time 9-to-5 employment, created "flexibility" for some across industries, it nevertheless posed significant problems for many other New Yorkers. This was particularly evident for contingent workers in the city's retail and domestic industries. Few low-income retail and domestic workers had any input into their work schedules, little, if any, say about the number of hours they worked, or when those hours would occur. Large numbers of retail and domestic employees were simply considered "on call" workers required to keep their schedules open to be ready to work, and only if needed.

This situation created stress for retail and domestic workers who were family caretakers, students, and people holding multiple jobs to make ends meet. They were unable to properly arrange for child care, elder care, medical appointments, school classes, and other part-time job commitments.

Such on-call work also financially handicapped retail and domestic workers in significant ways. Too often they were told "to go home" after paying for transportation to and from work, or arranging for or paying for child care or other expenses which turned out not to be needed.

Because the number of hours they were actually allotted on the job varied dramatically, too many workers had unpredictable incomes to cover basic household supports.

WCC's *Task Force on Fair Work* saw such unpredictable scheduling as a work-family balance issue and was determined to find a way to affect policy in this area. Simultaneously, New York City Comptroller Scott Stringer published a document, "*Families and Flexibility: Building the 21st Century Workplace*," in September 2015, where he detailed salient aspects of the scheduling issue and held a forum advocating for specific policy changes. Since WCC was examining the same issue, *Task Force* members reached out to Sally Frank in the Comptroller's Office and set up a meeting with the goal of working together, and determining the next steps of the *Task Force*.

After thorough study, the *Task Force* agreed to support Comptroller Stringer's effort to encourage the New York City Council to enact legislation to produce a meaningful city-wide policy to bring relief in scheduling to workers in retail and other industries. Additionally, the *Task Force* also applied some of our efforts to members of the New York State Assembly.

After examining how other City and State governments were addressing the issue, the *Task Force* determined that the heart of New York City law should include the following:

- In order to properly balance work and personal lives, part-time and contract workers generally should have notice of their schedules at least two weeks in advance.
- They should have the ability to request schedule changes without the fear of retribution.
- Any such law should be well-publicized and understood by workers and employers, and enforcement should be well-funded.

ACTIONS

The *Task Force* took a number of actions during this time:

Recognizing that this problem carried over to other areas of New York City's workforce - from restaurant and hospitality work to healthcare - representatives from other key industries were invited to meet with *Task Force* members and discuss how they unpredictable work played out in their various industries.

The *Task Force* hosted a public program in November 2015 to raise public awareness of the critical issue, assembling a panel of experts:

- Dr. Mary Gatta, Associate Professor, Sociology, Guttman Community College, CUNY
- Esther A. Kaplan, Editor of the Investigative Fund at *The Nation Institute*; and author of *Harper's Magazine* article "The Spy Who Fired Me"
- Zayne Abdessalam, Director of Public Policy at Retail, Wholesale & Department Store Union

Upon learning that the New York City Council and New York State Legislature were moving to address these issues by proposing legislation, Task Force members offered support to New York City Council Member Brad Lander of Brooklyn and New York State Assembly Member Nily Rosic of Queens, who introduced three pieces of legislation in the State Assembly. Both elected officials accepted our support, and the Task Force assisted both as they moved legislation along. Task Force members later began preparing a report outlining their activities, findings, and positions.

The New York City City Council introduced legislation in December, 2016 to ensure fair work including flexibility and predictability in New York City's retail industry. Task Force co-chair Barbara Allen testified before City Council in support of the Predictable Scheduling legislation – called the Fair Workweek Law – which subsequently became law.

The NYC Fair Workweek Law states that:

Retail employers in New York City, including subcontractors and temporary help firms whose workers perform task at a retail business in NYC, must give workers predictable work schedules. A retail business is a store that primarily sells consumer goods and employs 20 or more workers in the city.

Workers must receive 72 hours (3 days) advance notice of work schedule; there can be no on-call shifts; there can be no call-in shifts within 72 hours of the start of the shift; no shift additions can be made with less than 72 hours' notice unless worker consents; and, no shift cancellation with less than 72 hour notice.

Employers must post the notice “YOU HAVE A RIGHT TO A PREDICTABLE WORK SCHEDULE” where employees can easily see it at each workplace; employers must post this notice in English and in any language that is the primary language of at least five percent of the workers at a workplace if available on the New York City Department of Consumer Affairs website.

Employers must retain records for 3 years of worker hours each week; each worker's shift worked, including date, time and location; workers written consent to schedule changes when required; and, each written schedule provided to workers. Further details on the law are at: nyc.gov/dca

Throughout the process, the Task Force worked closely with various State and City elected officials, including: New York City Council Member Brad Lander; New York City Council Member Ben Kallos, Chair of the Council's Government Operations Committee; New York State Assembly Member Nily Rosic; New York City Comptroller Scott Stringer, and his Research Director, Sally Frank.

External allies also included: Dr. Mary Gatta, Guttman Community College, CUNY; Carol Rodat, former Policy Director at PHI National; Jessica Cracchiolo, Director of External Partnerships at Grant Associates; and, the Center for Popular Democracy.

IMPACT

On a State level, Assembly Member Nily Rosic recognized that her legislation could pass the Assembly but likely not the State Senate, so it did not move forward. However, as a result of her work, the State of New York agreed to survey its agencies to determine how, where, and to what extent it provides predictable scheduling to State employees.

The New York City Council passed the legislation on May 24, 2017 and it was signed into law by New York City Mayor Bill de Blasio on May 30, 2017. It took effect in July, 2018.