



Ogletree  
Deakins

# Strategies and Benchmarks for the Workplace:

Ogletree's Survey of Key Decision-Makers

April 2022

Analysis for moving forward together

# Message From Matt Keen

In the spring of 2021, we conducted our first benchmarking survey of in-house counsel and senior HR professionals. At that time, the world remained firmly in the grips of the pandemic, with employers facing many new and emerging issues.

One year later, while the pandemic seems to be waning, employers continue to grapple with remarkable challenges, from hiring and retention to lingering pandemic issues, and much more.

I hope you will enjoy our second annual benchmarking report and that it provides some useful insights into today's workplace. Thank you to the nearly 1,000 in-house counsel and senior HR professionals who participated in our survey.

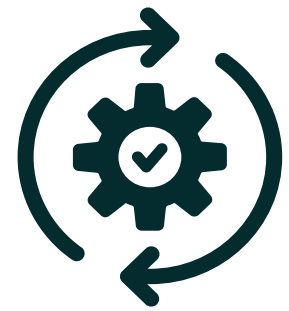


C. Matthew Keen

*Managing Shareholder, Ogletree Deakins*



# Methodology



Survey conducted from  
March 17, 2022 – April 1, 2022.



Nearly 1,000 responses from  
in-house counsel and senior  
HR professionals.

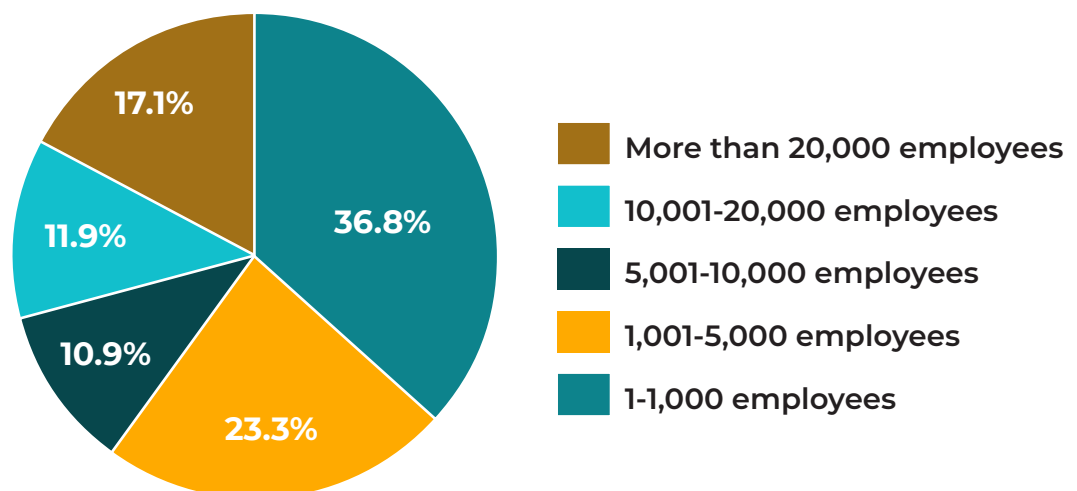


**Top 5 industries represented:**

- Manufacturing
- Healthcare
- Financial services
- Technology
- Retail

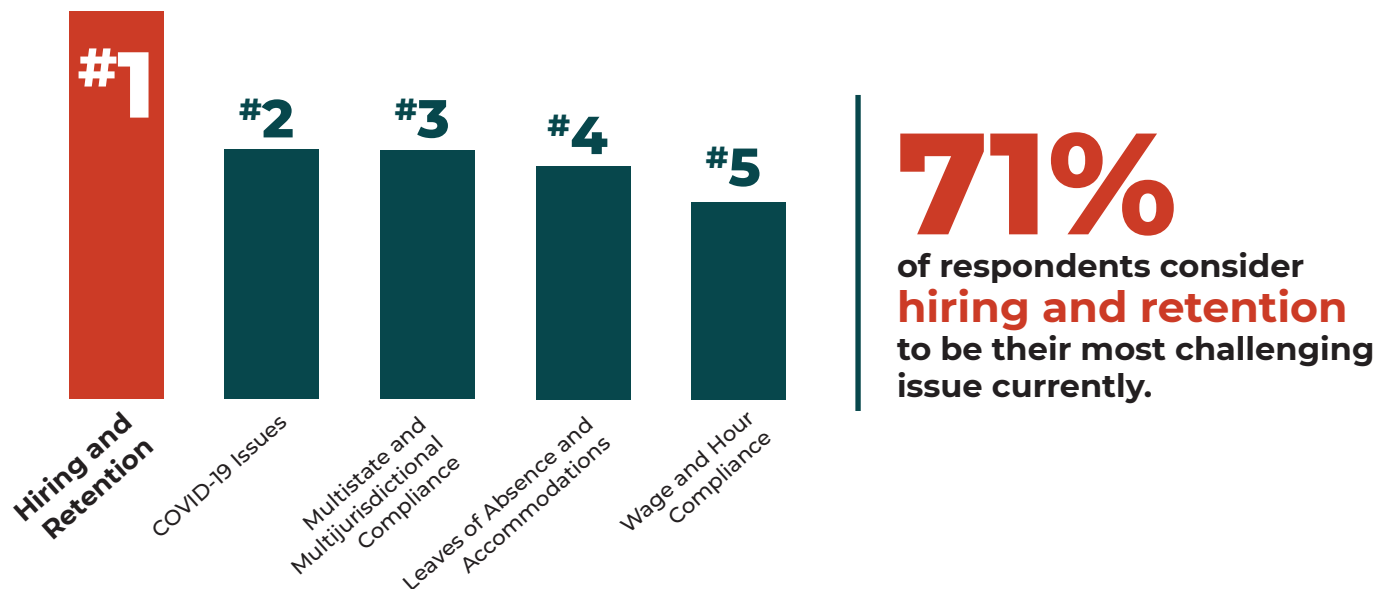


**Representing companies of all sizes**



## Hiring and Retention is the Top Challenge

Most challenging issues, ranked from 1 (most challenging) to 5 (least challenging)



**62.4%**

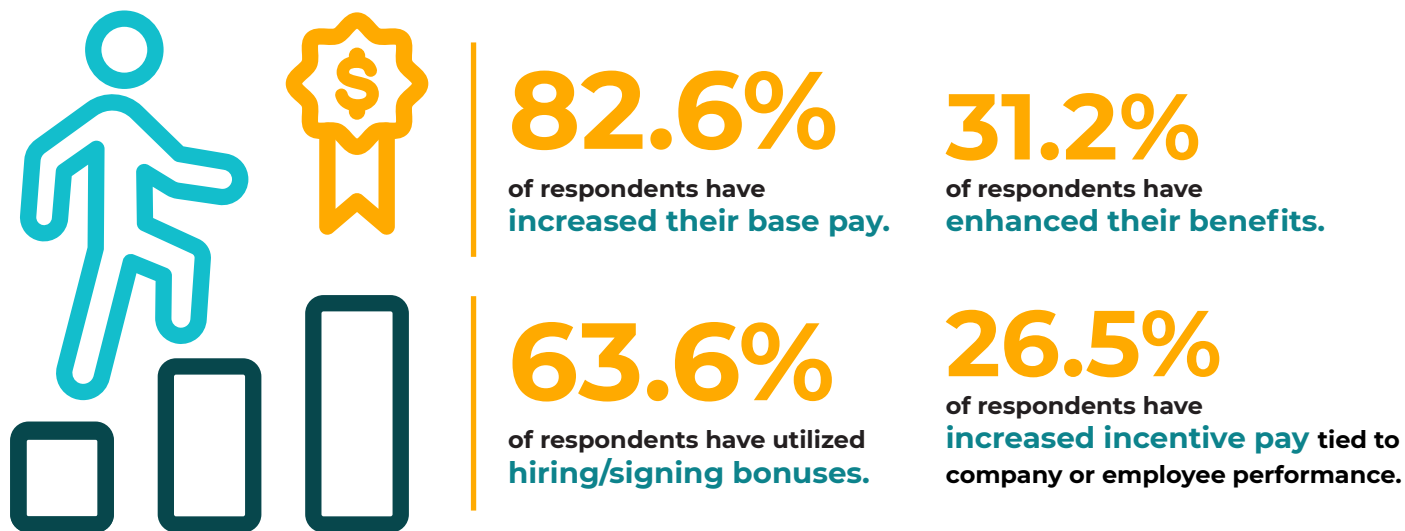
of respondents identified a **lack of candidates** to be the biggest challenge in recruiting and hiring employees.

**Only 25.4%** of respondents think hiring employees **will become easier** in the next 12 months.



# Hiring Challenges and Solutions

Changes companies have made to help with **recruiting/hiring** challenges:



9.5%

of respondents have taken other actions, including:

Providing flexible/hybrid/remote working arrangements

Eliminating marijuana from their drug screening panel

Offering referral bonuses or incentives

# Retention Challenges and Solutions

Changes companies have made to help  
with **retention** challenges:



**73%**

of respondents have  
increased their base pay.

**34.4%**

of respondents have  
enhanced their benefits.

**45.8%**

of respondents have utilized  
retention bonuses.

**35%**

of respondents have  
increased incentive pay tied to  
company or employee performance.

**58.2%**

of respondents have  
strengthened focus on  
wellness and/or diversity,  
equity, and inclusion.



**27.4%**

of respondents have  
implemented or  
enhanced mentoring.



**5.4%**

of respondents have  
enforced restrictive  
covenants.



**3.4%**

of respondents have  
eliminated random  
drug testing.

**7.6%**

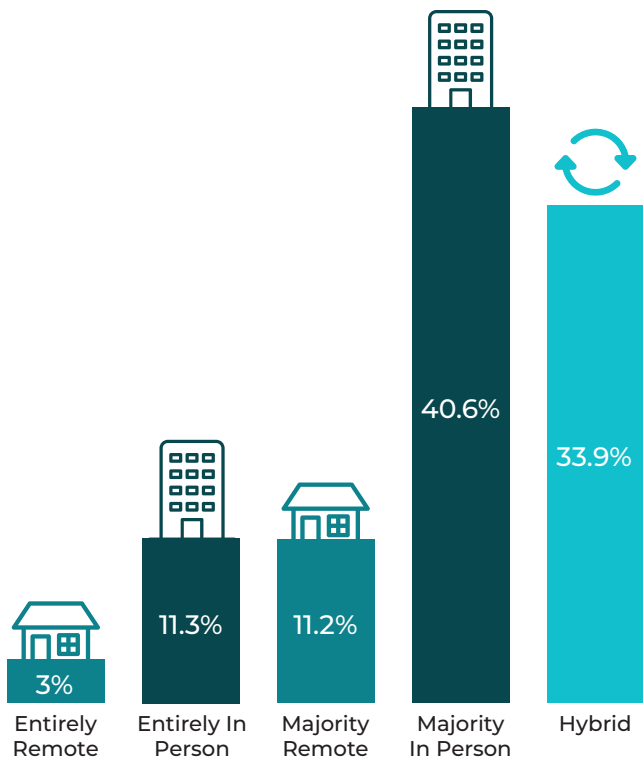
of respondents have  
taken other action,  
including:

Providing flexible/hybrid/  
remote working arrangements

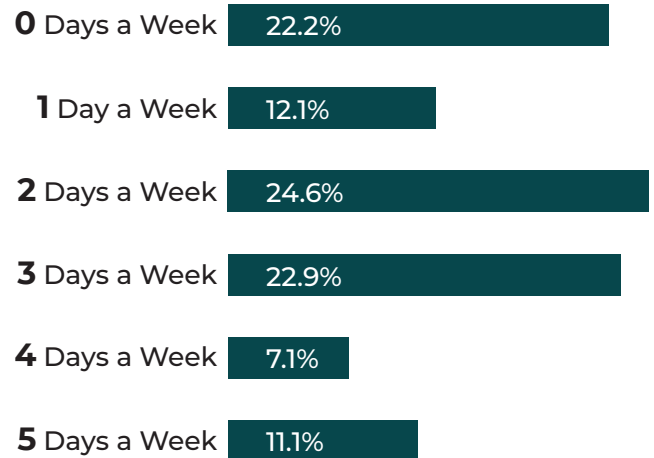
Eliminating marijuana from  
their drug screening panel

Increasing focus on company culture,  
engagement, and communication

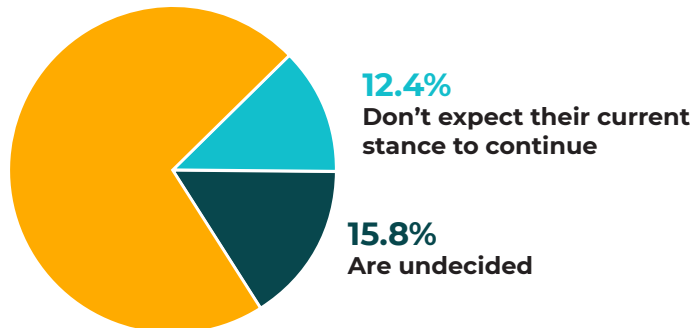
## Where is the workforce working?



On average, how many days a week is your workforce **working remotely?**



**71.8%**  
of respondents expect to **keep their current stance regarding remote work** for the foreseeable future.



**72%**  
of respondents' say their employees' **desire for remote work is much stronger than before the pandemic.**

## COVID-19 Vaccination and Testing



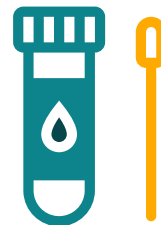
**62.5%**

of respondents have  
**no vaccination  
or testing policy**  
in place.

**15.4%**  
of respondents have  
a **mandatory vaccination**  
policy in place.



**6.6%**  
of respondents have  
either a **vaccination**  
or **testing policy** in place.



**15.5%**  
of respondents have  
a **different policy or**  
practice in place, including:

- Follows the requirements of local or state orders/other regulations (e.g., Centers for Medicare & Medicaid Services vaccine mandate for healthcare workers)
- Mandatory vaccination only for certain employee populations
- Vaccination is encouraged and/or incentivized but not required



# Challenging Multijurisdictional Issues

According to our respondents,  
**the most challenging  
multijurisdictional  
compliance issues are:**

**#1**

**Leaves of Absence**  
(Paid Sick Leave, FMLA and  
State Leave Laws, etc.)



**#2**

**Wage and  
Hour Laws**



**#3**

**Handbooks and  
Other Policies**



**#4**

**Background  
Checks**



**#5**

**Marijuana  
Laws**





**42%**

of respondents use **contingent workers** as a significant element of their current business model.



**18.7%**

of respondents use **artificial intelligence** for recruiting and hiring purposes.

## Utilizing Outside Counsel and Hiring In-House Counsel



Only **12.7%**  
of respondents will be adding more  
**in-house attorneys**  
over the next 12 months.

**29.3%**  
of respondents will be using  
**outside counsel**  
more over the next 12 months.



## Optimism About the Future



**82%**  
of respondents are  
**optimistic about their  
company's future.**

## The Next Wave of Employment-Related Issues

Just **22.7%**  
of respondents expect  
a significant increase in  
employment-related claims  
in the next 12 months.



*What do you see as the next wave of labor and employment issues that companies will face in the next 24 months?*

**18%**

**Remote Work**

"They worked from home for two years and now are required to come back to the office—why?"

**11%**

**Tight Labor Market**

"We've already seen an uptick in mental health-related accommodations and leave requests; there's a balancing act to keep the job protected, but find willing temporary labor."

"Employees are bouncing around like a 0% credit card offer to get the best deal and not taking ownership in their organization."

**10%**

**Americans with Disabilities Act (ADA)**

"The NLRB is reaching into all areas of business, and unions are building consensus with local government to address areas that they cannot get through organizing and bargaining."

**9%**

**Traditional Labor**

\*Chart does not add up to 100%.  
Not all responses have been included.

# The Next Big Compliance Risk

**What do you think is the biggest compliance risk that no one is really talking about?**

## Cybersecurity

"Since the pandemic, we have seen a lot of fraudulent unemployment claims and hackers."

"Training new employees on cyber issues and the increase in risk to employers from a cyber standpoint as they face employee turnover."

## Remote Work

"The impact of hybrid work arrangements on potential gender discrimination in promotions and career development opportunities."

"A dual employment with remote workforce."

## Multijurisdictional Compliance

"Compliance with all regulations especially if you are in almost all 50 states."

"The complexity and continual changing on multi-state laws/expectations."

## Wage and Hour Laws

"Exempt employees working non-exempt positions because of the lack of workforce."

"Use of independent contractors in the temp agency space."

## Pay Equity and Transparency

"Using compensation data/salary survey data inappropriately."

"Pay equity due to competitive job market conditions that require offers that are higher than what our current employees make."

**Independent, Unbiased Research  
Based Solely on Feedback  
From In-House Counsel and  
Senior HR Professionals**

