

16 September 2020

Blended  
Working  
Webinar

Questions &  
Answers

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**As a result of the coronavirus pandemic, many thousands of people started working from home for the first time and often at very short notice. As more workplaces are opening up, employers are considering how to get employees back into the workplace, as well as whether they should simply continue with homeworking. Ensuring workplaces are COVID-secure has limited the capacity of many offices and, as a result, numerous employers are now looking at the option of blended working, combining working from home (WFH) and from the workplace.**

There are, however, numerous issues employers will need to consider before deciding whether homeworking should become a more permanent arrangement requiring a variation to contracts of employment and other related issues, considered below. Many questions about homeworking were raised during our [recent webinar](#) which proved to be a very popular topic, and we have grouped these into common themes. We hope that this summary of the questions and answers is helpful; however, please do contact a member of the team if you would like further advice.

### **Do you need to make a formal variation of contract with regard to home working?**

It is a requirement that an employee's place of work is set out in their s.1 statement of terms and conditions (i.e. their employment contract). If your employee's contract currently provides that they work full time in the office and this is changing on a permanent basis, that change has to be recorded in writing. You can do this by issuing a new contract or by a simple letter of variation. However, you should be careful to set out what it means in terms of costs and expectations on both parties regarding travel, equipment and other issues. If the change to the employee's permanent place of work is at your request, rather than the employee's, you will need to consult with them over the change.

### **Can I refuse a request to work from home?**

Technically, if an employee wants to change their normal place of work to home-based, they should make a flexible working request. There is no specific right to flexible working (including home working); however, employers can only refuse a request for certain prescribed reasons, including "*detrimental impact on quality or performance or customer demand*". If granted, a flexible working request leads to a permanent change of contract and an employee cannot make another request within 12 months.

Many employers are choosing to deal with working from home requests on an informal basis. This enables a better dialogue with employees and can give greater flexibility in agreeing an arrangement that works for both parties, including the use of trial periods.

What is clear is that the vast majority of staff who were able to work from home during lockdown, did so effectively and so employers will need to think carefully about reasons for rejecting home working going forwards: if an employee has worked

effectively from home for the last 6 months an employer will need a good reason to demand that the employee works from the office all the time.

### **If I let one person continue working from home, am I obliged to do the same for everybody?**

The short answer is no: as an employer you are perfectly entitled to determine where people should be based; however, you need to be able to justify that decision. For example, you may need junior employees to be office-based to ensure they get sufficient supervision, or you may be able to show that one employee's performance deteriorated during lockdown and you believe home-working to be the reason.

### **Can I force all employees to return to office working and, if so, how much notice should I give?**

Assuming you have carried out all the necessary steps to make your workplace COVID-secure and you have valid reasons for needing employees to be back in the office, rather than home working, you can, for the most part, insist they return; however, you should tread carefully. Remember employees with underlying health conditions who are unable or reluctant to return to work may have protection on the grounds of disability. In terms of notice, with schools now open to all pupils, most employees should not need a great deal of notice to return to the work place and 1 – 2 weeks should usually be sufficient.

### **What are the health and safety obligations in relation to homeworking?**

An employer is responsible for an employee's welfare, health and safety "so far as is reasonably practicable."

Employers must conduct a suitable and sufficient risk assessment of all the work activities carried out by their employees, including homeworkers, to identify hazards and assess the degree of risk (regulation 3, Management of Health and Safety at Work Regulations 1999).

The Health and Safety Executive has extensive Guidance on homeworking, including for example, working safely with Display Screen Equipment as well as a Workstation checklist that individuals can complete themselves.

### **If a person works in the office and at home, do you legally have to provide a desk and chair and computer screens in both places?**

No. There is no legal obligation on an employer to provide/pay for the equipment necessary for homeworking. Most employers however will want the homeworker to use only their computer equipment to ensure compatibility with the employer's systems and to ensure that proper computer virus protection and security is in place. Employers are responsible for any equipment and technology they give employees so they can work from home and will need to ensure that any equipment is suitable for its purpose and maintained in good working order. If employees are using their

own equipment, they may want their employers to pay any maintenance and repair costs.

It is important to remember that if an employee has a disability within the meaning of the Equality Act 2010, employers have an obligation to make reasonable adjustments. This could mean, in the context of homeworking, providing the appropriate equipment for the employee or reimbursing the employee if they bought the equipment themselves. On 18 August, the Government announced an extension of the Access to Work scheme so that those working from home (or in the workplace) with a disability can benefit from additional help under the scheme including for special equipment.

### **What about insurance issues?**

This is an important issue to deal with. With regard to equipment provided by the employer, they will need to make sure that the equipment is covered by the employer's own insurance policy when the equipment is being used for homeworking and also covers a claim by a third party. If it doesn't, the employer should require the employee to take out insurance cover and the employer will reimburse the cost involved. If the employee is providing their own equipment they will need to check that their insurance policy covers the equipment for homeworking rather than just personal use.

Employees should also check there are no issues with them working from home with their home insurer and may even want to check with their mortgage provider or landlord that there are no problems with homeworking.

### **Do we need a specific home working policy?**

There is no legal requirement to have a home working policy; however, it's good practice to set out clearly in writing what is required of employees who are working from home, whether permanently, temporarily or on a blended basis. You should make clear what is expected of employees in terms of their KPIs, data security and all other matters.

### **Is there training available on how to manage staff remotely?**

Absolutely! We can now provide all our training online to fit in with your business, including training managers on how to deal with staff who are working from home (and how to manage staff from home). Please get in touch if you would like to discuss the training we can offer.

To hear more discussion on these and the other questions raised and answered by our employment and data protection lawyers during the webinar please download the recording [here](#).





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