



The new working world: part two

Webinar Q&A

We have listed the questions received prior to and during our webinar hosted on 20 May 2021. Please see our responses below.

- **How would you treat existing part-time workers in a move to a four day working week? Is there a proportionate reduction in working hours, while maintaining pay?**

In some countries, there are discussions over moving to a four-day working week which might involve, for example, a full-time employee working a 32 hour week over four days with no reduction in pay. How that might affect a part-time worker would be a matter for discussion with the individual, but there is no reason why arrangements with part-time workers should change as a result.

- **With a four day week structure, does this tend to be done via the company closing for that extra day per week, or having different people have a different additional day off per week, so that the company remains 'open' for five days a week but with a rotating attendance?**

How such an arrangement would work in any business would be a matter for discussion and agreement between the employer and their staff. If the employer is prepared to consider such a model, they would need to ensure it works operationally for them.

- **Where does one stand when employees with no pre existing health issues have said they only feel comfortable returning to the office once they are fully vaccinated? (Their role could be done from home).**

The first thing you need to explore is whether there are any specific reasons why they are not comfortable returning to the office. If there are no health issues, and assuming that their place of work is the office, you would probably be on firm ground if you insisted they come in. It would be hard, unless Covid rates increase, for the employee to argue that any refusal to attend work is based on a reasonable fear of serious and imminent danger.

- **Can a mobility clause be used to require the employee to work from home?**

Probably not. Most mobility clauses do not make any reference to working from home. It is for the employer to provide a workplace. However, the reality may well be that regardless of mobility clauses, if there is no job available in the workplace, the employee will feel compelled to work from home rather than be made redundant.

- **We have had some clients with employees who are working from home and looking after children. It is difficult to assess how this affects performance but employers are concerned about this. How should it be managed?**

Realistically, most employers are having to rely on some give and take in terms of working hours. The best approach would be to discuss the situation, explore whether there are any solutions to the competing demands of work and childcare and try to reach agreement. Disciplinary action should be the last resort.

- **Should Employer Liability Insurance extend to working from home? And what are the employer obligations if an employee has an accident in their home working environment?**

Yes, make sure that your employer liability insurer is informed of changes. An employer is under a duty to take reasonable care of an employee's health and safety whether they work in the workplace or at home. If the accident arose because of a defective work environment at home, the employer is liable if it has failed to take reasonable care. That would involve undertaking a risk assessment and providing safe equipment.

- **What qualifies somebody as a "home worker"? Does it have to be full time and dictated by the organisation? Or if I choose to work from home one day per week, do the same obligations apply?**

A homeworker would be anyone who spends some of their working time working from home – even a few hours a week.

- **Regarding health and safety with working from home, presumably staff would have to report accidents that may happen at home in the same way as they might in an office?**

Yes, accidents should be reported.

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- **Can hybrid working be run via policy instead of change to T&Cs?**

Yes. There are many advantages to establishing a policy, especially if that is reached in consultation with and in agreement with staff. Changing terms and conditions will have a tendency to reduce flexibility.

- **What happens if you have not consulted to change location to working from home yet and you have an individual who is currently sofa surfing and wants to work in an office but some offices remain closed - would you have to provide an office for them to work in?**

It really depends on what their contractual workplace is. If their contractual workplace is the office, the employer has no right to impose homeworking. However, as we have seen, some staff will have no option but to agree to homeworking if their office is shutting. If there is a convenient office where he or she could work, a Tribunal may frown on the employer if they were to dismiss in this situation.

- **We do not plan to pay for extra equipment for work at home. Staff can take their equipment to and fro. Assume they have no right to have office chairs etc. at home paid for?**

They have a right to a safe place of work at home. If equipment is not portable and it is needed in order to provide a safe workplace, the employer should pay for it to be provided at home.

- **From an HMRC and contractual place of work perspective is it still correct that 60% of working time should be spent at the contractual place of work?**

I am not an expert on HMRC practice so I cannot offer a view. From a contractual perspective there is no 60% cut off. An employee is entitled to work from their contractual place of work unless the contract specifies otherwise. Some contracts do provide for this by saying something along the lines of "Your normal place of work is xx office but you may be required to work at other office locations from time to time".

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Greg Burgess
Partner, Employment

01293 558547
Greg.Burgess@dmhstallard.com



Simon Bellm
Partner, Employment

01293 558511
Simon.Bellm@dmhstallard.com

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