

HOMWORKING GUIDE

Introduction

Regular homeworking has significantly increased over the last 5 years. Latest statistics from the TUC show that one in seven workers now work from home or fulfils a majority of their contracted hours either at home or visiting sites from their home base. The number is almost certainly more with the introduction of flexible working policies and workers requesting ad-hoc work from home days.

Homeworking can offer flexibility to employers and employees; however branches should be vigilant and negotiate a homeworking policy which balances the needs of the business, but one which takes into account the circumstances of the employee (especially if they are disabled or have caring responsibilities). This guide will review what homeworking is, will look at what are the main pros and cons of homeworking from an employer and employee perspective and look at some of the health and safety implications of homeworking.

Definition of homeworking

It may be helpful whilst negotiating a homeworking policy, to define what is meant by 'homeworking'. Homeworking is often slotted into workplace **flexible working policies**, however branches can negotiate a separate homeworking policy – please see model agreement in appendix 1 of this guide - This may be advantageous for branches that have members that are mobile workers or in workplaces where employers are moving towards increased agile working in the workplace or moving their employees towards working at home.

The legal employment status of home workers is defined by the following tests of whether they are a 'worker' or 'employee':

- **Mutuality of obligation** – is the person legally obliged to carry out some work in return for some payment (contract)
- **An obligation to work personally** – or can they send someone else to do the work for you.
- **Control** - A right to control how and when work is done
- **Consistency** – contract terms are consistent

If a person works from home that does not mean they can't be an 'employee' in legal terms, however there is established case law (*Bridges and others v Industrial Rubber [2004] All ER 261*) where the issue of 'the rights to how and when work is done' has established doubt over whether a person that is a home worker is an 'employee' or 'worker'. Employment

Tribunals are looking at this on a case by case basis, however if there is a written contract of employment and established, agreed terms for homeworking, there should not be any issues.

The table below defines homeworking into three types:

Occasional (ad-hoc) working from home

- This is the most common ‘type’ of homeworking and means taking work home on an ad-hoc basis.
- This might be because an employee has a specific task they need to concentrate on without the normal interruptions of an office environment.
- This might also occur where it is difficult for an employee to get into work because of adverse weather conditions.
- Finally this may be used in cases where following an illness or operation homeworking is recommended as part of a phased return.
- In most cases an employee’s direct line-manager will authorise working from home requests, taking into account the needs of the organisation.

Regular homeworking

- An employee would be classified as a regular homeworker when they spend 50% of their contracted hours working from home.
- This is an agreement between the employer and employee.
- The employee and line-manager must agree targets which are to be met.
- This type of arrangement often suits employees where the job involves frequent or regular off-site visits.
- Requesting regular homeworking is a formal request. Some organisations may have a form that has to be filled in and sent to management and HR for a written response.
- Some regular homeworkers may have more protections if they have a contract change stating home as their base.

Permanent homeworking

- This is when an employee will spend 100% of their contracted hours either working at home or visiting sites from their home base.
 - Home is their contracted work base.
 - Branches should ensure this is confirmed by a variation to the employee’s contract of employment.
 - Permanent homeworking works best for employees where the job is autonomous
 - This could be considered for any disabled members with mobility problems. If upon medical advice homeworking is suggested, this should be considered as a ‘reasonable adjustment’ under the Equality Act 2010.
 - Requesting permanent homeworking is a formal request. Some organisations may have a form that has to be filled in and sent to management and HR for a written response. An organisation needs to show that it has considered the request under their policy and is upholding their duty to comply with other employment legislation like the Equality Act.
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Benefits of homeworking

ACAS guidance on homeworking sets out some of the benefits of homeworking for the employee which includes:

- Reduced commuting time and costs
- Employees are able to manage their own time without distractions
- Flexibility (work/life balance)
- Makes working easier if an employee is combining work with any caring responsibilities – but this should be managed appropriately
- Increases job satisfaction
- More opportunities to work for disabled employees

The advantages for an employer for offer homeworking to their employees includes:

- Reduced overheads – lower rent if less office space is needed
- Increased productivity – Employees working from home (in some cases) deliver more work due to the fact that they are not interrupted as much as they would have been in the office environment
- Morale and Motivation – Staff feel happier if they have the option to work from home
- Recruitment and Retention – Offering working from home might open up vacancies to a wider pool of applicants from a wider geographical area. Homeworking may also help retain staff as it offers flexibility and work/life balance.
- Reputational – Employers are increasingly seeing the benefits of offering homeworking and being ‘seen’ as a flexible employer. This also helps attract talented staff.
- Environmental – The employer can show that they have helped the environment by cutting the amount of pollution caused by their workforce in a daily commute

TUC Survey on Homeworking (May 2016)

Research from the TUC has identified that employees who say that they usually work from home has increased by a fifth in the last decade.

Their survey showed that the biggest growth area within homeworking was women who now work regularly from home – which increased by 35% from 482,000 in 2005 to 609,000 in 2015. The analysis showed that older workers in their forties and fifties were also more likely to be home workers.

Research from the ONS shows that now over 4 million workers are working from home - this figure is likely to be more if you include those that request ad hoc work from home days.

The South West had the highest proportion of homeworkers and the industries that had the highest proportion of homeworkers was IT and agriculture. The TUC research also highlighted that more workers would like to take up the offer of homeworking if their employer offered the opportunity for them to work from home.

Some of the explanations for the increase in homeworking amongst the workforce could be where employers are looking to cut overheads in estate costs and business rates.

Another explanation is that technology has advanced and with broadband access it has now made it easier to perform roles from home.

The TUC also highlighted that employees are now more aware of ‘flexible working’ options and therefore employees are requesting homeworking arrangements.

Other considerations for the increase in the number of people now homeworking include a rise in self-employed workers within the economy, the rising cost of living which is making the costs of commuting unaffordable and changes in Government policy to try and get more disabled workers back into work.

Some possible drawbacks of working from home should be considered in order to put measures in place to help support homeworkers. Possible drawbacks include:

- **Social isolation** – Branches and employers should review what other services they could offer homeworkers to help support them if they are feeling isolated or suffering from stress and depression due to feeling socially isolated. Some organisations offer their staff access to free counselling services or a confidential helpline that staff can call to get advice.
- **Communication** – Employers should review frequently how they communicate developments and changes within their organisation, especially with staff based at home. This is also important for UNISON Branches as they will also need to look at how they stay in touch with this group of workers and still involve them with branch campaigns.
- **Separating home life from work** – Homeworkers need to be careful not to allow work to encroach on their home life and a member of staff working at home could have an impact on other members of the family, for example not using a room that is the work office, or making sure they do not disturb their family member who is working - this is a difficult balance to strike when their home is their office.
- **Danger of over-work or working unsocial hours** – Homeworkers have identified that there is a danger of working longer hours and not taking adequate breaks when you work from home.

What can branches do?

- The agreement should make clear the management's responsibility to ensure regular contact and communication with the homeworker, including the arrangement for home visits by line managers (including frequency, duration and amount of notice given);
- Branches need to ensure they keep in touch with members who work at home or are home-based, giving homeworkers plenty of notice of branch meetings and other union activities.

Other issues for branches to consider when discussing flexible working and homeworking policies with their employer

The ACAS guide Homeworking – a guide for all employers and employees sets out what should be considered when negotiating a good homeworking policy. Listed below are the main points that should be considered:

Management / Availability of staff

One of the key issues branches should negotiate into any homeworking policy is to set out what expectations the employer has in terms of an employee's availability while they are working from home - for example does homeworking mean that an employee must work and be available during core business hours? Or can they be more flexible? Is the employee's home suitable for homeworking? Does the employee have a reasonable adjustment that must be addressed as part of any risk assessment? These are important issues that should be discussed as part of any homeworking agreement to prevent any issues arising later on.

Development of staff and development reviews

Employers need to address how they will be able to offer the same opportunities to home workers as they offer employees that are office-based. This applies to development reviews and training and how these will be carried out. It may be specified in the policy that an employee must visit their organisations premises to take part in training and attend their development review.

What can branches do?

- Employers are responsible for the training and career development of homeworkers and time-off to attend training applies to homeworkers as well as office based staff. In addition when branches are negotiating agreements you can make provisions for specific training for homeworkers – for example health and safety or basic first aid training.

The extra costs of homeworking

An employer should consider the extra costs of offering homeworking. As well as organising risk assessments, maintenance, equipment and work stations for staff, the policy should also consider what other things the company will provide, for example will the company pay for an employee's broadband or supply paper for a printer. The policy should also state what the employee is expected to provide as well as other working from home costs for example is the employer going to contribute to electricity and gas bills?

Employees who are working from home regularly or permanently should check their home insurance and mortgage policies to see if there are any clauses about working from home.

What can branches do?

- Homeworking agreements should set out what equipment an employee will need to work from home and employees should be compensated for any additional costs they have incurred from using their home for work purposes;
- The agreement should make clear the arrangements for dealing with the storage, use and security of confidential data held at home – the employer may wish to provide a locked filing cabinet;
- Homeworkers are responsible for informing the tax office of their working arrangements and looking into insurance and mortgage policy implications of working from home.

Contract changes

Not all homeworkers need formal changes to their contract; however as set out in our model agreement in appendix 1 of this guide (point 3.3), some homeworkers can have their contract changed to reflect their homeworking agreement. This is advisable for workers who have regular or permanent homeworking arrangements as it may offer the worker more protection in terms of the allowances they are able to claim or expenses to and from their home if they are based there but often work in various other locations.

What can branches do?

- Terms and conditions of homeworkers should be the same as office based staff with the same opportunities for promotion and training – the homeworker should also received written information on how reviews and home visits will be conducted;
- If homeworking arrangements are not working, the agreement should contain a provision for dealing with this situation – including an appeals procedure
- Agreements should specify what allowances, travel and subsistence payments are available to homeworkers to claim.

The employee's wellbeing

An employee's wellbeing is paramount and all employers have a duty of care to all their employees regardless of where an employee is based. Many homeworkers have identified that they have felt isolated from their organisation when they are based at home and have no way of getting updates. Some homeworkers have mentioned the feelings of frustration they have felt about not being informed of changes within the organisation or if there are issues with the equipment they are using (computer breaks down).

Employers should make sure they have provisions in place in order to support homeworkers who feel isolated and need assistance – for example some organisations have an IT helpline so that homeworkers are able to get IT support if they have any issues. It is employer's responsibility to keep all their staff informed of changes within the organisation and well informed on any jobs that become available so that homeworkers don't feel professionally isolated. Some organisations like UNISON email out a daily update to all staff letting them know about organisational matters, campaigns, events, details of employees who have left the organisation and job vacancies.

Equally it is a homeworker's responsibility to inform their employer if they are off sick and they should follow their organisation's sickness absence protocol. It should not be left to an employer to contact their homeworkers to find out if they are working.

Support for employees who have careering responsibilities

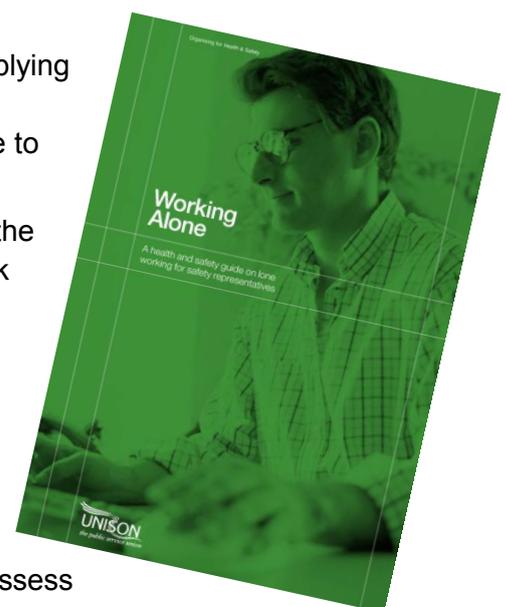
Although homeworking offers a greater level of flexibility for workers that are carers, employers should take the time to make sure that these members of staff are receiving the support they need and that they are taking the adequate amount of breaks they should be during a working day. Being a carer is an extremely demanding role, so it may be worth discussing with the individual employee what is required of them as a carer and working out some form of flexible working pattern to help support them. Some organisations offer additional services like a confidential counselling helpline so that workers can access support while they are at home, to stop them feeling isolated and alone.

Health and Safety – suitable workspace

There are some health and safety aspects to consider when applying for homeworking; the main concern an employer may have is whether there is a suitable workspace at home for the employee to work.

An employer has a duty of care for all their employees and it is the employer's responsibility to carry out a risk assessment to check where the employee proposes to work from – desk, chair, computer, etc, or if any other work station is needed. It should be established in the policy that a risk assessment will take place. Branches negotiating a homeworking policy should have written into the policy that a UNISON member can request that a UNISON Health and Safety rep accompanies the manager responsible for conducting the risk assessments at their home-base as UNISON safety reps are fully trained to assess and make a recommendation on any equipment that is needed.

The employer is also responsible for the equipment it supplies including where there will be extensive use of computers and visual display units (VDUs) as these will be covered by



Display Screen Regulations, but it is the employees' responsibility to make sure they highlight any issues they know when the risk assessment takes place (for example, faulty electric plug points) and allows for the employer access to the equipment to be able to annually PAT test items.

The Health and Safety at Work Act 1974 states that an employer shall ensure, so far as it is reasonably practical, the health, safety and welfare at work of all employees – this also extends to home workers. As the control that can be exercised over a member of staff working from home is limited, the main responsibility will be with the home worker under Section 3 (2) of the Act, which places the obligations on home workers themselves to ensure that they and other persons, including members of the household (as well as the public) are not endangered by work activities undertaken at home.

Homeworkers are also covered by the Working Time Regulations which set a limit of 48 hours on the working week.

UNISON Checklist for branches

- Homeworking arrangements should be entered into voluntarily; staff should not be forced into switching to a home working arrangement;
- Homeworking schemes should be piloted. A trial period of 3 months is adequate to assess the suitability of the arrangement;
- Regular reviews of the homeworking arrangement should be conducted between the employee and their line manager;
- Branches should work with the employer to assess what posts are suitable for homeworking and what posts are not suitable, there should also be an appeals procedure for employees to use if they feel their post has been judged incorrectly;
- Criteria for eligibility for homeworking should be clear, transparent and non-discriminatory - The homeworking agreement should set out the criteria used to judge the suitability of an employee for homeworking;
- A risk assessment should be made of the employee's home and the agreement could include the ability of the manager to be accompanied by a UNISON Health and Safety Rep. Employers should ensure the health and safety of all their employees, including those based at home. They should make sure that their employees are not working over the 48 hours a week limit under the working time regulations.

Other Sources of Information

[ACAS Homeworking – a guide for employers and employees](#)

[Labour Research Department – Working from Home Guide \(2015\)](#)

[TUC Research – Home-working](#)

[UNISON – Working alone, a Health and Safety guide on lone working for safety reps](#)

[HSE Guide – Homeworkers](#)

Appendix 1 – Model Homeworking Policy

Introduction

- 1.1 [Employers name] promotes flexible working to all employees and homeworking is one of the flexible working options available to all staff.
- 1.2 For the purposes of this policy a distinction is made between members of staff who have (or wish to apply for) a formalised agreement with their line-manager to work from home as a **regular** or **permanent** ‘home worker’ and those who work from home on an occasional basis without a formalised agreement (referred to as **ad hoc working from home**).

Definition

Ad hoc working from home Employees who request permission to work from home on an ad hoc basis.
To be agreed with their direct line manager where appropriate.

Regular home worker An employee would be classified as a regular homeworker when they spend 50% of their contracted hours working from home.
This is an agreement between the employer and employee.
An example of this could be a full-time employee who wishes to work from home 2.5 days a week.
Applications for regular homeworking must be made formally in writing to the employee’s direct line manager.

Permanent home worker This is when an employee will spend 100% of their contracted hours either working at home or visiting sites from their home base.
Home is their contracted work base.
This will be confirmed by a variation to the employee’s contract of employment.
Applications for permanent homeworking must be made formally in writing to the employee’s direct line manager.

- 1.3 [Employer’s name] is committed to improving the working lives of all staff (full time, part time or job share, regardless of gender, race, disability, age or personal circumstances) to help them achieve a work/life balance, which balances the demands of the job with their home life.
- 1.4 Individual requests for homeworking will be reviewed on their own merit and all posts will be subject to homeworking criteria to make sure the post suits homeworking.
- 1.5 There is no automatic right for staff to be a (**regular** or **permanent**) home worker as there may be circumstances’ where [employer’s name] cannot accommodate the request. However [employer’s name] will not refuse a request for home-working without giving in writing a sound business reason why the request was refused.

1.6 All homeworking arrangements will be subject to a trial 3 month period to ascertain if this is the appropriate working arrangement for the employer and the employee. The homeworking arrangement will be reviewed between the employee and their line-manager after 3 months and written confirmation of the outcome of the review will be sent to the employee within 5 working days. If a working from home arrangement is withdrawn after the trial period an explanation will be given by the employer and the employee will have the right to appeal the decision. The appeal will be heard by another manager (independent from the case) and the employee has the right to be accompanied by their trade union representative or full time official to the appeal meeting.

2. **Ad hoc work from home requests**

2.1 Applications for **ad hoc working from home** will be considered and will be approved at the line manager's discretion, taking into account the individual's circumstances and the needs of the business. Approval must be sought before an employee works from home.

3. **Regular or Permanent homeworking**

3.1 Employees who are already defined as regular or permanent home workers can apply for other forms of flexible working [as defined in the flexible working policy].

3.2 New staff members should be made aware of this policy and the process of applying for homeworking is covered in their induction. If a post is considered as a regular or permanent homeworking post, prospective staff should be made aware of this option through any recruitment material.

3.3 Employees who wish to apply for regular or permanent homeworking should be aware that any arrangement agreed will constitute a contractual change to their terms and conditions.

3.4 If an employee feels that their application for regular or permanent homeworking (or to cease to be a 'home-worker' or to vary their already agreed homeworking arrangements) has been unreasonably refused they have the right to appeal the decision.

3.5 **[Employers name]** will not exercise any pressure on an employee to change his or her working arrangements, or to alter any existing homeworking arrangements.

3.6 **[Employers name]** will supply the following equipment and will conduct a health and safety audit every 12 months (delete as applicable):

- Computer (laptop or PC), modem, printer, network connection, surge protection plugs;

- Workstation e.g. adjustable table and chair, light, document holder, footstool;
 - Phone (with answering machine), mobile phone, additional telephone lines;
 - Other office equipment – scanner, shredder, filing cabinet for confidential documents;
 - Office stationary;
 - Cleaning materials;
 - First aid kit and fire safety equipment – smoke detector and fire extinguisher
- 3.7 Employees who are defined as **regular** or **permanent** home workers are responsible for informing their tax office of their working from home arrangements and reviewing their home insurance to make sure it covers homeworking. **[Employers name]** will pay the cost of any increases in house insurance premiums.
- 3.8 Employees who are defined as **regular** or **permanent** home workers are subject to home visits by their line manager. This is in order to complete personal development reviews and give additional support to homeworkers. These visits will last for **x** hour(s) and will take place at least **twice** a year. A minimum of 4 weeks' notice will be given in writing before a home visit takes place.

4. **Reviews of homeworking arrangements**

- 4.1 **[Employers name]** has the right to review any existing homeworking arrangements and through a process of negotiation and written agreement, to vary an existing agreement. The employee is entitled to be accompanied by their trade union representative or full-time official in any meetings to negotiate a variation to homeworking arrangements.
- 4.2 Agreed homeworking arrangements are reviewed regularly and can be withdrawn if it is demonstrated that:
- the performance of an employee suffers as a result of homeworking;
 - the effectiveness of the team in which the employee works is compromised;
 - the business needs are not being met.
- 4.3 If homeworking arrangements are reviewed due to an employee's performance, these will be dealt with under the **[employer's name]** capability procedure. The employee is entitled to be accompanied by their Trade Union Representative or full time official for any meetings to discuss any changes to homeworking arrangements or performance management.
- 4.4 If homeworking arrangements are withdrawn the employee will be given a minimum of 4 weeks' notice of this change in writing.
- 4.5 Staff applying for homeworking must apply formally in writing to their line manager, stating the working pattern they are requesting and the reasons for the request.

- 4.6 If an employee is appointed to a new role then the homeworking arrangement will be reviewed to see where the new post meets the homeworking criteria.

5. Health and Safety and Security of homeworkers

- 5.1 All staff that work from home should ensure they have a suitable environment where they can focus on work.
- 5.2 The Health and Safety at Work Act 1974 states that an employer shall ensure, so far as it is reasonably practical, the health, safety and welfare at work of all employees – this also extends to home workers. As the control that can be exercised over a member of staff working from home is limited, the main responsibility will be with the home worker under Section 3 (2) of the Act, which places the obligations on home workers themselves to ensure that they and other persons, including members of the household (as well as the public) are not endangered by work activities undertaken at home.
- 5.3 Employees working from home are responsible for complying with data protection law and for keeping all documents and information associated with the organisation secure at all times.
- 5.4 An employee can request that a UNISON Health and Safety representative accompany the health and safety manager if they are conducting a risk assessment of the home-based office.

6. Sickness Absence

- 6.1 Homeworkers must comply with **[employer's name]** sickness absence policy and ensure they report their sickness to their line manager when they are sick and unable to work.

7. Travel and Other Expenses

- 7.1 Staff designated as homeworkers should reclaim all travel expenses to and from the **[employer's name]** offices on days they would normally work from home.