

When your Home is your Workplace

A Remote Worker's Guide to Employment Rights



FORWARD

Developments in technology and its availability have made it possible for many desk jobs to be performed outside of an employer's premises, for part or all of the working week.

The COVID 19 pandemic has required tens of thousands of businesses and employers to act over a matter of days to help slow the spread of the virus by moving their staff to work remotely from home.

For the vast majority of these workers and their employers this was their first experience of working from home, and many have expressed an interest to continue this type of working arrangement on a permanent basis.

Working from home or remotely from another location close to home, such as a digital hub or co-working space, has many advantages for workers. It can, for instance, improve your work-life balance, reduce your commuting time and carbon footprint, and save you money. However, in the absence of a collectively agreed company policy on homeworking, workers can also face challenges, such as working longer hours, feeling lonely and stressed, and slower progress up the career ladder.

The trade union movement is fully committed to ensuring workers' hard-won rights are preserved when working from home, that protections are fit for purpose and that the post Covid-19 world of homeworking does not lead to greater work precarity and casualisation.

This worker's guide to your employment rights when your home is your workplace has been developed by the Northern Ireland Committee of the Irish Congress of Trade Unions. We hope this guides assists our trade unions and their members. We also hope this guide can be used as a resource when negotiating bespoke agreements/arrangements suitable for their sectors and industries.



Owen Reidy
Assistant General Secretary

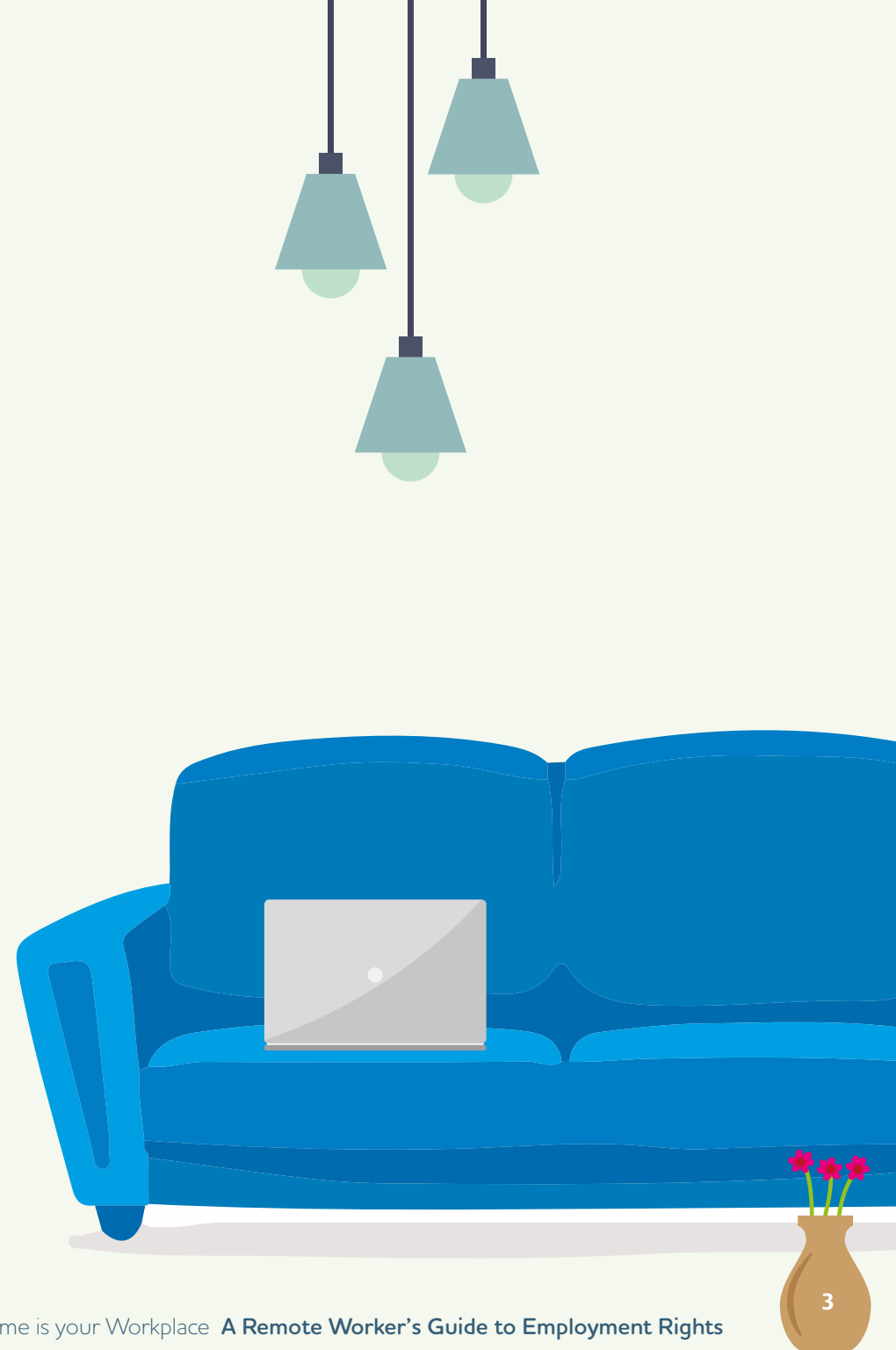


IN THIS GUIDE

	Page
Forward	2
Your Right to Work from Home	4
Employment Contract	5
Health and Safety	6
Mental Health and Wellbeing	7
Sickness	8
Working Time	9
Right to Disconnect	10
Data Protection	11
Monitoring and Privacy	12
Surveillance	13
Equipment	13
Expenses	14
Training and Promotion	15
Where you can get further advice	16



Where you see this icon, click on it to be taken to more detailed information on the internet or a download.



YOUR RIGHT

to request flexible working, including a request to work from home

Flexible working includes being able to work alternative work patterns and can also include an agreement to work from home, either for some or the majority of your contracted hours.

The Flexible Working Regulations Northern Ireland 2015

gives some employees the statutory right to make a flexible working request. However, in order to be eligible to request flexible working under the regulations, the request must come from an employee who has worked for the employer continuously for at least 26 weeks when the request is made. In addition, the employee must not have made another statutory request during the previous 12 months.

Employers do not have to agree to a flexible working request but they have a duty to seriously consider it and may only refuse a request where there is a recognised business ground for doing so. Whilst there are many jobs which can be done from home, it is also important to remember that some work cannot be done remotely. If you are considering making a request for flexible working, including working from home, you would be strongly advised to consult your trade union to guide you through the process.

Those who have worked for an organisation for fewer than 26 weeks, agency workers and office holders do not have a statutory right to request flexible working, however, employers should still consider the requests because of the business benefits it could bring. A request for flexible working can cover hours of work, times of work and place of work and may include requests for different patterns of work.

If your employer allows some staff to work from home, this working arrangement must be open and available to all staff. Your request cannot be refused on any of the grounds protected under anti-discrimination legislation, for example because of your gender, age or family status and your employer's refusal of your request to work from home must be based on fair and objective criteria. For more information on anti-discrimination legislation, see the Equality Commission for Northern Ireland's [website](#).

ICTU believes that all workers, regardless of their employment status or length of service, should have the right to request flexible working and we also want to see the obligation on employers to grant flexible working requests strengthened.



EMPLOYMENT CONTRACT

If your employer wants you to switch from office-based working to remote working, it should be a voluntary arrangement between you and the employer.

Your work location is one of the main terms in your contract of employment. The employer is legally obliged to provide you with a written copy of your main terms of employment when you commence employment. These terms should be changed only by mutual agreement, after consultation with yourself or your trade union. In general, the employer cannot unilaterally change your contract and force you to work from home.

However, it is important to check your contract as some employment contracts include written terms known as 'flexibility clauses' or 'mobility clauses', which may allow the employer to make unilateral changes to your work location. If your contract contains this kind of term, your employer must still act reasonably, consult with you or your trade union and provide sufficient time before making any changes to enable you to prepare, instead of forcing change on you. Otherwise, the employer is in danger of breaching the fundamental duty of mutual trust and confidence that is implied in every employment contract.

If there is no flexibility or mobility clauses covering the proposed change, the employer and you or your trade

union need to agree to the change before it can go ahead.

After reaching an agreement with your employer to switch to working from home for all or a substantial part of the working week on a permanent basis, your employer must give you the details of the changes to your contractual terms and conditions of employment in a revised statement. If you are occasionally working from home, such as one day per week, or if your working hours are changing from fixed periods to a flexible starting and finishing time, this should also be reflected in a revised statement.

It is recommended that you and your employer undertake a trial period in order to see how the new working arrangement would work in practice before a final decision is made and for the arrangement to be reviewed at regular periods. It is common for employers to retain the right to terminate the arrangement if it is appropriate to the business needs. You should also have the right to opt-out if your circumstances change.

Your employer must not discriminate when implementing changes to work location. They must also make reasonable adjustments for any disabled employees who are adversely affected by a plan to shift to homeworking.

For more detailed information, see:



HEALTH AND SAFETY

Your employer has a legal duty of care for their staff and needs to provide a working environment that is safe and without risk to your health, as far as is reasonably practicable.

This duty of care extends to locations other than the employer's premises, including your home when remote working.

Your employer must carry out a health and safety risk assessment to determine that your work can be safely performed from home. To fulfil this obligation, your employer will require you to complete a checklist or risk assessment of your home environment when you begin working from home and from time to time, this should be done in consultation with your trade union.

Specialised equipment and any PPE needed to carry out your work safely from home, such as a proper chair to prevent a work-related injury, should be provided by your employer. Employers should also consider any reasonable adjustments needed to facilitate workers who have disabilities to work from home.

You are also responsible for taking reasonable care of your own safety and maintaining a safe working environment. You have a duty to follow all instructions

provided by your employer on safe work practices to reduce risk to yourself and others who may be affected by the work you are doing.

You are responsible for notifying your employer of any risks or hazards and work related accidents immediately. Your employer should have a system for reporting and investigating accidents and injuries incurred during work hours and arising from or while performing work activities in your home.

For more detailed information see: Health and Safety at Work [Order](#) (Northern Ireland) 1978

[Health and Safety Executive for Northern Ireland](#)



MENTAL HEALTH AND WELLBEING

Your employer also has a duty of care for your mental health and wellbeing at work. Workers working from home may be at greater risk of experiencing loneliness, feeling socially and professionally isolated and more stressed compared to workers in an office setting.

Employers should check-in frequently, monitor workloads and keep an eye out for signs of underlying stress. Some employers put in place virtual social events such as online fitness sessions, relaxation webinars and virtual coffee breaks. These team-building types of events can promote regular contact and interaction between colleagues, a sense of belonging, reduce stress and heighten productivity while remote working. However, they can feel manufactured or “force fun” for some people. While all workers should be invited to take part, your employer should not make participation mandatory or “strongly encouraged”, especially if the activity is happening during your breaks or outside work hours. It is recommended that you work on-site for one or more days weekly/monthly (as appropriate) to protect against a sense of disconnection from the organisation and isolation from colleagues arising.

Work related stress can be caused by many factors. It may be useful to talk to your trade union if you are experiencing work related stress and the [stress management standards](#), developed by the Health and Safety Executive NI may also be a useful tool.

It is important to remember that bullying or sexual harassment can still happen to people who work from home and can make you feel even more isolated and vulnerable. Your employer should have robust workplace policies in place to deal with bullying or harassment and it is important that you inform your employer and your trade union if you are being subjected to this behaviour.

For more information:

[NI Direct](#)

[Labour Relations Agency](#)

[Equality Commission for Northern Ireland.](#)

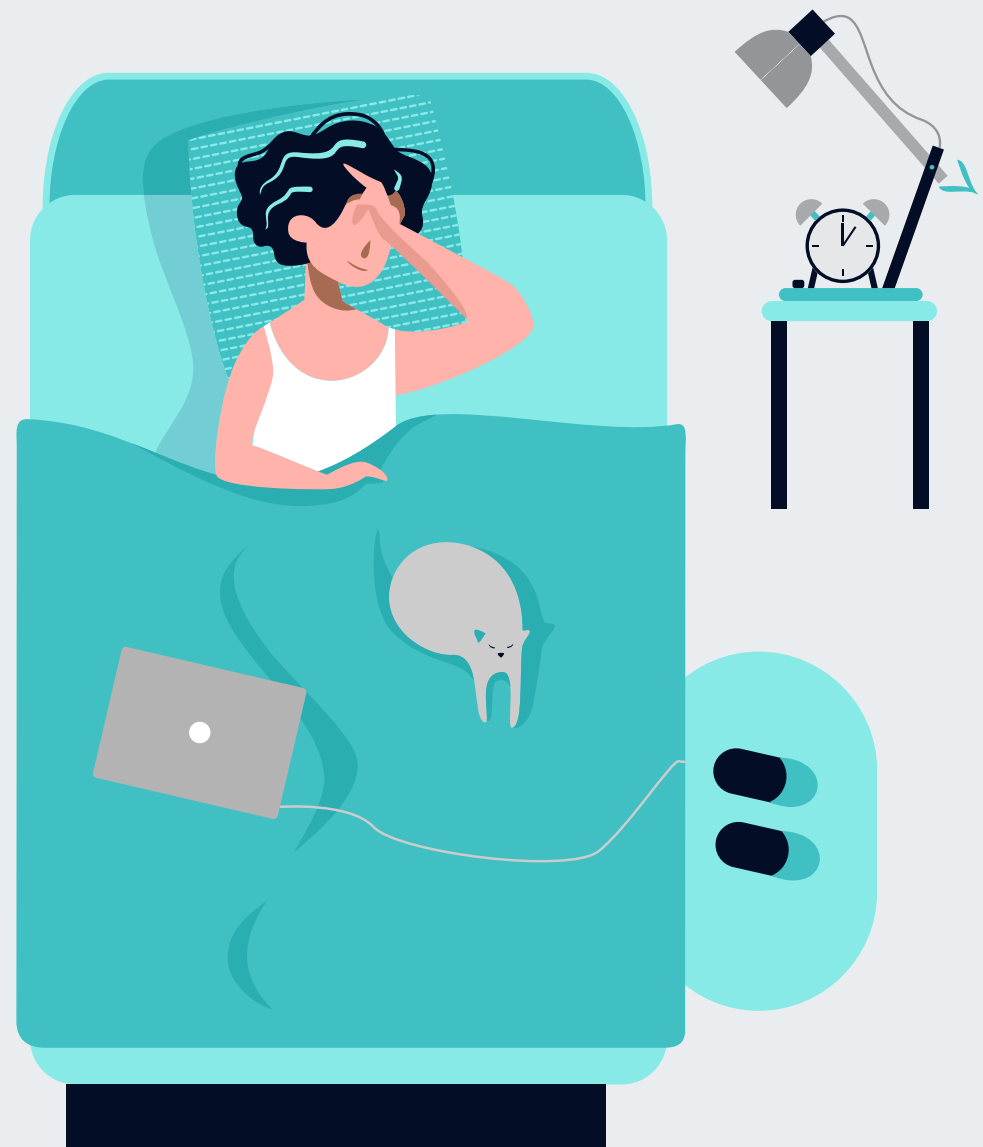


SICKNESS

Workers working from home may be more reluctant to call in sick when they are feeling unwell because they fear they will appear to be taking advantage and so could be more likely to keep working whilst sick or injured. If you are unwell, you should take sick leave to give yourself some work-free time to recover and if you have had an accident and been injured you should report this immediately to the nominated person in your workplace.

When working from home the normal sick leave notification procedures and entitlements apply. Your employment contract should clearly state these rules e.g. state the specified person you must contact if you are sick and unavailable for work, if your employer provides sick pay and the length of time you can get sick pay.

For more information on sick pay see NI Direct:



WORKING TIME

Working from home arrangements often include flexible starting and finishing times outside of standard business hours to accommodate the worker, such as to allow for school drop offs. However, flexi-working arrangements must be in compliance with working time legislation.

At a minimum, you are entitled to a daily rest period of 11 consecutive hours between working days. If a worker's daily working time is more than six hours, the worker is entitled to a rest break of 20 minutes, employers must ensure that workers can take their rest. Whether you get paid for rest breaks at work depends on your contract.

When working from home you are responsible for assisting your employer in complying with their obligations. Your employer may ask you to record your starting and finishing times and breaks. You should cooperate in keeping these records and return them to your employer on a weekly basis. Be self-disciplined, work only your contracted hours, take your breaks and rest periods.

Annual leave entitlements remain unaffected and normal notification procedures should apply.

For more detailed information, see:

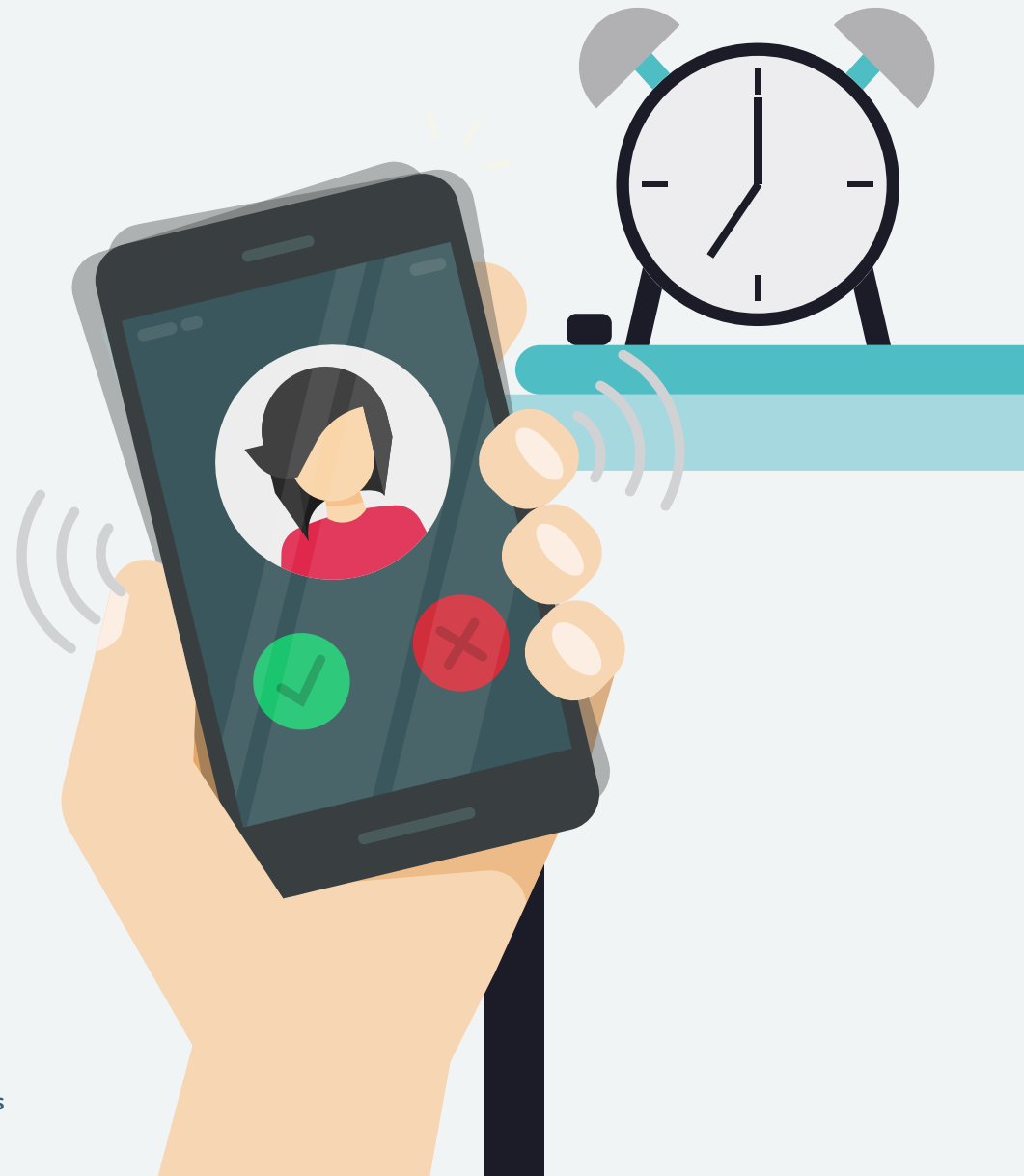


RIGHT TO DISCONNECT

Much of the same technology that enables us to work remotely also makes us reachable outside of work hours. Workers regularly report answering out-of-hours telephone calls, emails and to other electronic messages. This is particularly common among remote workers who can feel under pressure to appear to be constantly available for fear of being judged negatively.

However, when the occasional intrusion on your personal time becomes constant this becomes a health and safety issue and if you are overtired, you are a danger to yourself and others. While there is no right to disconnect in Northern Ireland's employment law, your employer has a legal duty to curtail your working pattern if it results in you breaching the maximum working hours.

To further help tackle the always-on culture, if you work flexi-hours outside of standard business hours when working from home bear that in mind when contacting others. Consider including a note within your email signature that you are not expecting a response outside of their working day.



DATA PROTECTION

The risk of cyberattacks and confidentiality breaches are heightened when workers work remotely. Your employer should take extra measures, such as ongoing staff ICT training and providing virus-protected and encrypted laptops with the proper software installed, to ensure data security outside of their premises is in line with GDPR. Secure shredding will also need to be facilitated.

You need to make yourself fully familiar with your employer's data protection policy which should clearly define confidential information and set out your duties as an employee to protect that information and specific guidance on how to maintain confidentiality while working from home, such as safely storing your laptop and files, making sure that any visitors to your home don't see any sensitive material you are working with, and ensuring your wifi is password protected.

For more information see:

[The information Commissioner](#)



MONITORING AND PRIVACY

Trust is crucial for working from home arrangements to be effective. Employers, remote workers and their office based colleagues need to trust each other that work will be completed in a timely and effective manner and that productivity does not suffer because of remote working. To build mutual trust it is important that your employer sets and communicates clearly defined expectations, goals and deadlines. Protocols around your performance indicators, a straightforward way to monitor performance and times and methods for maintaining contact should be discussed and agreed between you or your trade union representative and your employer.

Whilst an employer can monitor your activities while you are working remotely, this must be lawful and within certain limits and because the [Human Rights Act 1998](#) extends to the workplace, you have the right to a reasonable amount of personal correspondence and phone calls during work time.

Any monitoring must be justified, (for example to ensure compliance with regulatory requirements, prevent or detect crime, and check whether communications are relevant to the business if a worker is away from work) and proportionate to your right to privacy.

You must be notified if your activity is being monitored. Your employer's ICT policy should clearly make you aware of any monitoring and should set out why monitoring may take place, the nature of the monitoring, how information will be used and who will have access to it.

Covert monitoring at work without prior warning is a serious privacy intrusion.

Monitoring can cover:

- emails
- internet access
- telephone calls
- data
- images

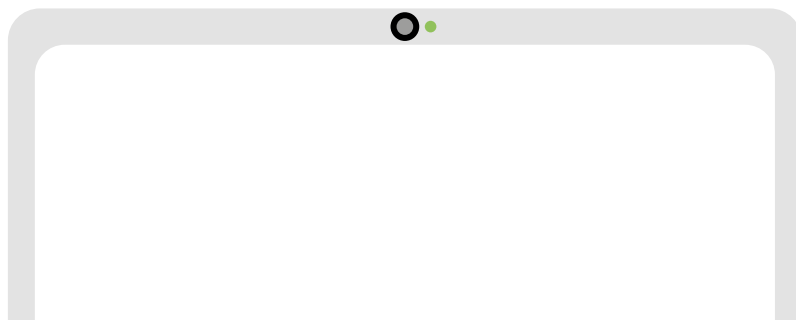


SURVEILLANCE

The trade union movement has become increasingly concerned to hear of the growing number of employers using Software products to measure workers keyboard and mouse usage, web browsing activity and to monitor for keywords or topics in workplace chat channels. Practices that facilitate employers to watch over remote workers, such as requiring a laptop camera and microphone to be always on and at the ready for supervisors spontaneously checking-in that they are actively working, are also disturbingly not uncommon.

The use of surveillance products and practices must comply with the transparency requirements of data protection law and not breach your right to privacy in the workplace. These practices should also be the subject of negotiation and agreement with you and your trade union. Covert workplace surveillance should only happen in extreme cases, such as if there are grounds to suspect criminal activity or serious malpractice, and only for a limited period of time.

For more detailed information, see these articles:



EQUIPMENT

Your employer is responsible for providing, installing and maintaining the tools you need to do your job from home, and any specialised equipment to prevent a work-related injury. For desk work, your employer should supply you with a computer or laptop, software, a suitable desk and chair as well as a business telephone and broadband. Certain workers will also require stationary, printer, scanner and other materials. Your employer should put in place a point of contact for repairs, tech support and other issues arising with business equipment. You are responsible for making yourself fully familiar with your employer's ICT policy on the use of company equipment and should ensure that reasonable care is taken with any equipment.

You should not have to bear the cost of any insurance costs for working from home. If there is an increased cost to cover work equipment, for example, then that should be borne by the employer.

EXPENSES

You may be able to claim tax relief for some of the bills you have to pay because you have to work at home on a regular basis. You cannot claim tax relief if you choose to work from home. You can only claim for things to do with your work, for example, business telephone calls or the extra cost of gas and electricity for your work area.

You cannot claim for things that you use for both private and business use, for example, rent or broadband access. From 6 April 2020 your employer can pay you up to £6 a week (£26 a month) to cover your additional costs if you have to work from home. For previous tax years the rate is £4 a week (£18 a month).

The rules on claiming expenses for working from home are complicated and subject to change and you should check entitlements before approaching your employer.

For more info see here:



TRAINING AND PROMOTION

Remote workers are at risk of being overlooked for training and promotion opportunities compared to their office-based colleagues. Research has been shown this to happen more frequently when their manager does not work from home. You should have the same access to training and career development and be subject to the same appraisal policies as comparable colleagues working in the office.

It is recommended your employer should provide training to develop the skills needed for remote working, such as self-management, online presentations, video conference meetings, and protecting data and maintain confidentiality while working your home.



OTHER MATTERS TO CONSIDER

Caring responsibilities

You may have caring responsibilities such as for children or an elderly or disabled relative or dependent. Your employer may have a policy on how they support carers and this should extend to anyone working from home too. Employers should be flexible and work with you to ensure work life balance and combine your caring roles. See further material from Employers for Childcare [here](#) and Carers NI [here](#).

Domestic and sexual violence and abuse

Statistics show that incidences of domestic violence are unfortunately on the increase. Employers have a duty of care to ensure the safety and wellbeing of all employees; tackling domestic and sexual abuse and violence is an important workplace issue and not just a personal or private matter. The trade union movement would encourage every employer to have a policy on supporting those experiencing domestic and sexual violence and abuse.

It is important to remember that for people experiencing domestic violence, being in work can often feel safer than working from home where they may be confined with the perpetrator. Employers and trade unions must be aware of this and carefully consider what additional measures should be taken to ensure the safety of all workers. See [here](#) for draft guidance for employers on developing a workplace policy.

WHERE YOU CAN GET FURTHER ADVICE

For free and confidential advice on working from home and all employment rights issues:

- Trade union members can contact your workplace rep or union's head office.
- Members and non-members can contact the Irish Congress of Trade Unions at +44 (0)28 9024 7940

Irish Congress of Trade Unions
45-47 Donegall Street
Belfast
BT1 2FN

www.ictuni.org

 @NIC ICTU