

## Employer Obligations in the Remote Working Space

Prior to the public consultation on remote working in August of this year the Department of Business, Enterprise and Innovation published Remote Work in Ireland, a report on the prevalence and types of remote working solutions in Ireland, the attitudes towards them and influencing factors for employees and employers when engaging with these solutions. Within the 2019 report a number of areas were addressed including that of safety, health and welfare, employment conditions, data protection, equality and training. While we await the outcome of the public consultation and in light of the on-going need for remote working to continue, employers in the Community & Voluntary sector must ensure that they remain vigilant in accommodating and facilitating good work practices for those who continue to work remotely.

Yesterday's meeting of NPHE did not alter the arrangements for the majority of counties who remain at level 2 of the *Resilience and Recovery: Living with Covid Plan*, but despite this, there is a recognition that remote working will continue in some form for an indeterminate amount of time. On this basis it is of paramount importance that employers continue to comply with their obligations to the workforce.

### **Safety, Health and Welfare**

The responsibility for health and safety at work rests with the employer regardless of where the place of work is, so a focus on the home work space in the short to medium term is essential.

Employers' responsibility for employees' welfare in the workplace is detailed in a number of different pieces of legislation, such as:

- EU Directive 90/270/EEC (Display Screen Equipment)
- The EU Framework Agreement on Telework (2002)
- Safety, Health and Welfare at Work Act 2005
- Safety, Health and Welfare at Work Regulations 2007
- European Agency for Safety and Health at Work Guidelines on Workplace Risk Assessment for Teleworkers (2008)
- The HSA Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work (2007)

Employers need to consult with their employees to assure themselves:

- that the employee is aware of any specific risks regarding working from home,
- that the work activity and the temporary workspace are suitable,
- that they provide suitable equipment to enable the work to be done, and
- that there is a pre-arranged means of contact.

To ensure compliance employers must assess the requirements of each individual employee such as undertaking online ergonomic assessments or risk assessments for employees who have a disability or are pregnant to ensure that the everyday tasks and working conditions do not have a negative impact on the employee's health.

## **Conditions of Employment**

Employers must ensure that regardless of where an employee's place of work is that they are afforded all entitlements and protections in accordance with legislation. This means ensuring all employees avail of the necessary breaks and rest periods under the Organisation of Working Time Act, 1997 as well as ensuring the right to disconnect is known and promoted by the organisation. Approaches to probation management, performance management or dealing with conflict or conduct/ performance issues will have changed to accommodate the remote setting but this does not negate an employer's obligation to apply fair and correct processes.

What has become quite clear throughout this pandemic is that flexibility should not only be encouraged but it should be adopted from the top of the hierarchical structure. For example, the government have in place different means of dealing with the virus such as recommending periods of self-isolation or restricted movement. Following medical advice one or more employees will need to adhere to these requirements so employers must be flexible in dealing with these matters.

Promotion of established practices notice periods etc will ensure employees are aware of their obligations, but consideration of amendments to these policies may be necessary while the health crisis continues. There are numerous factors to be considered in manoeuvring through this environment but the more agile an employer can be the more business continuity will feature in the organisation.

## **Data Protection**

The continuation of remote working means that employers must ensure continued compliance with data protection principles so the following considerations should be communicated to all employees in respect of their devices, email communications, network access and paper records.

### *Devices*

- Care should be taken so that devices, such as USBs, phones, laptops, or tablets, are not lost or misplaced,
- Ensure all devices have the necessary updates, such as operating system updates (like iOS or android) and software/antivirus updates.
- Ensure computers, laptops, or devices, are used in a safe location, minimising who else can view the screen, particularly if working with sensitive personal data.
- Ensure employees are advised to lock devices if leaving unattended for any reason.
- Ensure devices are turned off, locked, or stored carefully when not in use.
- Use effective access controls (such as multi-factor authentication and strong passwords) and, where available, encryption to restrict access to the device, and to reduce the risk if a device is stolen or misplaced.
- When a device is lost or stolen, steps should be taken immediately to enable a remote memory wipe, where possible.

## *Emails*

- Ensure all employees are following organisational policies around the use of email.
- Ensure work email accounts are used for work-related emails involving personal data.
- Ensure employees are checking the recipient of emails before sending, particularly for emails involving large amounts of personal data or sensitive personal data.

## *Cloud and Network Access*

- Ensure employees are only using the organisation's trusted networks or cloud services and complying with any organisational rules and procedures about cloud or network access, login and, data sharing.
- Ensure any locally stored data is adequately backed up in a secure manner.

## *Paper Records*

- Where remote workers have paper records, ensure they are taking steps to maintain security and confidentiality of these records, such as by keeping them locked in a filing cabinet or drawer when not in use, disposing of them securely (e.g. shredding) when no longer needed, and making sure they are not left somewhere where they could be misplaced or stolen.
- Where remote workers are dealing with records that contain special categories of personal data (e.g. health data) additional care should be taken to ensure their security and confidentiality, and only remove such records from a secure location where it is strictly necessary carry out the work.
- Employees should be advised to keep a written record of which records and files have been taken home, in order to maintain good data access and governance practices.

## **Well-being**

Working remotely comes with its own unique pressures and stresses, most notably the inability to maintain a healthy work-life balance. As an employer you are obligated to ensure health and well-being of employees and while this has been a major focus over the past number of months this must remain a priority for all employers.

The impact of social isolation for remote working employees may lead to issues such as workplace stress or stress related sick leave, therefore employers must ensure that connections between employees are continuously facilitated to mitigate against this. Continued promotion of an Employee Assistance Programme, if in place, will assist in the support of employees ensuring they have access to counselling or other services while working remotely from home.

Encouraging separation between work and personal life will also ensure that remote workers are not working beyond their contractual hours. It falls to employers to communicate expectations in maintaining the status quo when it comes to start and finishing times as well as breaks throughout the day. Remind employees of their right to disconnect to avail of time to focus on their personal and family lives.

Consider a high touch approach to well-being with the introduction of weekly initiatives or weekly communications on resources available that specifically support employees' health and well-being.

Management of communications is not just at the charge of employers, but employers should facilitate and encourage effective communications from their employees especially when in need of support. Employees may not always reach out, so management should encourage daily interactions and follow up with those who appear withdrawn. Finally, a focus on professional development should be encouraged not least to promote engagement but also to maintain an environment which adds value to both employers and employees alike.

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**For further information or advice, please contact the designated HR & Employment Helpdesk at [thewheelhrhelpdesk@adarehrm.ie](mailto:thewheelhrhelpdesk@adarehrm.ie) or via telephone on (01) 5394661  
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