

# Quick Guide: Hybrid working

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## What is hybrid working?

Hybrid working, or as it's sometimes referred to 'blended working', is used to describe a form of flexible working that permits employees to split their working week between the office and another venue, usually the employee's home. Many employers and employees have realised the benefits of homeworking over recent months, but also the frustrations and disadvantages it can bring. As a result, a significant number of employers are looking to encourage a more balanced approach through hybrid working going forwards.

## What are the benefits of having a hybrid working policy?

Having a clear policy will help to manage expectations about what is and is not possible in the post pandemic world of work and mitigate the risk of complaints or claims in the future. For instance, a clear policy setting out when attendance in the office is required avoids any suggestion that the permanent homeworking arrangements we have been forced to adopt will be continued indefinitely.

If employers do not set clear parameters on what is expected and simply allow permanent homeworking to continue once restrictions are lifted, this could give rise to an implied contractual right to permanent homeworking through custom and practice. Whilst this might not be an issue in relation to some roles it could cause problems down the line for those roles which require a presence in the office or where additional support and supervision are required.

# What should employers include in a hybrid working policy?

Thanks to the pandemic 'working from home' is a phrase we are all used to hearing. With the lifting of restrictions, however, 'hybrid working' is set to take its place. We consider the benefits of having a hybrid working policy and what to include in it.

## What are the key issues to include in a hybrid working policy?

**Eligibility** – employers will need to decide if the policy will be applicable to all staff or whether it is only suited to certain roles. If it will apply only to some roles, the policy should clearly set-out which roles are not eligible and the reasons for this.

**Expectations for hybrid working** – the policy should specify what the business' expectations are in terms of the split between office and other locations. For example, an employer may expect full-time employees to spend at least 3 days a week in the office, or that employees are expected to split their time 50/50 between the office and other location. Employers should consider if there are any specific circumstances in which employees are expected to attend the office, such as team meetings, any in-person training provided or any role related duties that should be conducted from the office, and whether these will be on set days or, if not, how much notice will be given the employees to attend. Consideration should also be given to when permanent office working might have to be re-introduced, for instance if there are performance or well-being concerns with the employee working remotely.

Employers should also set out any requirements in terms of where the remote location can be. For instance, will this just be at the employee's home address or are other venues permitted? Will the employee need to inform their manager if they are working from a location which is not their home address? How should employees ensure that any other location is secure to work from bearing in mind data protection obligations? It is worth noting that there are significant legal and logistical issues with allowing employees to work from abroad for weeks at a time, such as immigration, tax and data protection consequences which would need to be carefully considered if this is something the business will permit. As a result, any limits on where the employee can work should clearly be set out in the policy.

**Office working** – the policy should also include any expectations the business has when employees are working from the office. For example, do employees need to work during set hours or can hours be flexible? Are there any safe-working measures remaining in place post 'freedom day' that need to be followed such as a desk booking system? It is also important to clarify what happens regarding expenses for travel to the office. Normally, travel to and from a place of work will not give rise to expenses nor be counted towards working time.

**Working elsewhere** – any hybrid working policy should also set-out expectations for employees when working remotely. For example, the policy should cover:

- What technology or equipment will be provided (if any) and whether the employer will require access to carry out maintenance checks on that equipment
- How sickness absence should be reported when working from home
- Health and safety procedures and policies for employees whilst working from home, including risk assessments
- The business' data protection and computer security policy for remote working; and/or
- Whether employees are expected to be 'available' during set hours or if a more flexible approach can be taken.

**Other forms of flexible working** – the intention of a hybrid working policy is to sit alongside other flexible working policies. Therefore, the policy itself should clarify what other types of flexible working options are available to employees, such as making a formal flexible working request.

## Other considerations for employers

As well as having a policy in place, employers should also think about whether any changes to employees' contracts of employment are required, and if so, seek agreement to these changes. Whilst many employers are choosing not to update place of work clauses within contracts on the basis that the approach to hybrid working is a flexible, informal one, some employers may decide that setting clear contractual expectations around attendance in the office is preferable and so will look to update place of work clauses.

Some employers may also want to consider what benefit packages they offer to see whether these are still appropriate in a new hybrid working environment. For example, is membership of a gym close to the office still worthwhile?

## Implementing the policy

Whilst there is no prescribed procedure for implementing a policy (as opposed to a contractual term), employers are well advised to consider the following steps:

**Consultation** – seeking feedback from employees to highlight any concerns or considerations that should be addressed before implementing the policy is a good way to ensure employees buy in to the policy. It is also good practice to consult any employee representatives or trade unions and consider their feedback on the policy.

**Supporting managers and training** – adopting hybrid working will undoubtedly change a manager's role and bring up new challenges for them to overcome. Employers should consider offering training and guidance to help managers develop the skills needed to deliver effective communication, performance management and relationship building in teams that are working both remotely and in the office.

**Communication** – any business that adopts hybrid working will have to consider how it communicates with staff both in and out of the office. For example, employers could consider team meetings being held online as a default and only conducting face-to-face meetings when appropriate for the whole team.

## Summary

The lifting of restrictions and return to the office is an opportunity for employers to look at their business and determine how they can exploit the benefits of both working from home and remote working. However, as with all things in the world of employment law, setting out expectations in advance through a carefully drafted policy will help to ensure that those benefits are realised.



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