

Briefing

Home and agile/hybrid working guidance

Key content:

- This guidance is aimed at employers and supports with assessing whether a role could be suitable for home or agile/hybrid working.
- It also includes guidance on tax implications/considerations and potential contractual implications.

Overview

This guidance is intended to support employers with the ongoing implementation and updating of local policies following the introduction of section 35: home and agile/hybrid working (England & Wales) of the NHS Terms and Conditions of Service (TCS) Handbook in October 2023.

This guidance should be read in conjunction with section 33 of the NHS TCS Handbook, and the joint guidance for considerations when defining a work base. It should also be used alongside our suite of resources on flexible and agile working.

Assessing whether a role is or could be suitable for home and agile/hybrid working



There are a number of reasons why home and agile/hybrid working may be considered, and this can be an employer-led initiative or a request by an individual employee.

Any requests should be carefully considered to assess the potential impacts or positive effects these could have on the organisation and individuals to enable informed decisions to be made and find mutually agreeable solutions.

When assessing whether a role is suitable for home or agile/hybrid working some of the key considerations include:

- balancing employee and employer requirements
- working in partnership with local union representatives
- approaching requests with an open mind and consider alternative ways of working and/or finding ways to compromise
- using trial periods to test new ways of working
- considering the health, safety and wellbeing implications

- considering contractual and cost implications (some worked examples set out below).

The [CIPD website](#) has a useful flowchart which may assist employers in making these assessments. If unsure whether a role or part of the role can be done from home, undertake a role review exercise using the questions outlined in the CIPD guidance above. These include:

- How much face-to-face interaction is needed?
- Which location best supports effective work, and why?
- What are the employee's work environment preferences and suggestions on how this can work in practice?
- What percentage of work is flexible in time and location?
- Can the work be restructured for different working arrangements? How much supervision, support or collaboration is needed?
- Are there any cost implications? This could be savings or additional costs for both employer and/or employee. Ensure any additional costs are clearly identified and assess the feasibility and impact on the request.

Tax implications/considerations



The government's definition of a homeworker is much narrower when used for the purpose of determining eligibility for tax relief provisions.

For home to be a workplace and to be able to claim the tax relief for expenses, the employee must be able to demonstrate that homeworking is an objective requirement of the job, rather than personal choice.

Employers can use a wider definition, including for the purposes of allowances and reimbursement of costs. However, it should be made clear whether or not any payments will be treated as taxable earnings.

Tax rules relating to homeworking, claiming expenses and tax relief are complex areas and we recommend that employers seek their own professional tax advice on a case-by-case basis.

Contractual considerations



The section below details the potential contractual implications to be used alongside [section 35](#) of the NHS TCS Handbook particularly sections 35.32 to 35.36.

Local policies for agile/hybrid and homeworking should set out clear principles and processes for agreeing and processing contractual variation/change.

Example 1 - Contractual home working at the request of the employer – for example closure of workspaces and requires staff to permanently work from home with occasional visits to business premises

Do you need to amend contractual place of work?

Yes, the principal place of work should be defined as individual's home but requiring work from all trust / integrated care system (ICS) premises if requested.

What process should be followed?

Organisations should follow their usual change management processes including consulting with employees affected, working in partnership with local trade union representatives.

Are they entitled to high-cost area supplement (HCAS)?

Yes, if the contractual work base (home address) is within a high-cost area.

Can they claim travel expenses?

They can claim expenses from home to other work bases (dependent on local agreements), but will only get tax relief if working from home is an objective requirement and enforced by the employer.

Example 2 - Contractual home working at request of employee

Do you need to amend contractual place of work?

Yes, you need to be clear if arrangement is permanent or temporary and include suitable mobility clause requiring work from all trust / integrated care system (ICS) premises (if requested).

What process should be followed?

Flexible working procedure as per sections 35.20 – 35.22 and Section 33 of the NHS TCS Handbook.

Are they entitled to high-cost area supplement (HCAS)?

Yes, for staff where the contractual work base (home) is within a high-cost area.

Can they claim travel expenses?

Can claim travel expenses from home to any other business premises subject to local agreement on thresholds.

Tax exemption will not apply as there is no objective requirement to work from home.

Example 3 – Agile/Hybrid working – at request of employer

Do you need to amend contractual place of work?

Possibly. In most instances, the designated contractual work base will usually be at one of the employer's sites. Formal contractual variation may not therefore be required, except in instances where both parties agree that the hours to be worked at home should be captured as a contractual term.

Ensure contracts include a mobility clause requiring work from all trust / integrated care system (ICS) premises if requested and consider any flexibility required with the working pattern.

What process should be followed?

This may already be embedded as part of the culture of the organisation, ensure local policies and working arrangements are made clear to employees in writing.

If introducing as a new way of working, organisations should follow their usual change management processes including consulting with employees affected as needed, working in partnership with local trade union representatives. Ensure local policies and new working arrangements are made clear to employees.

Are they entitled to high-cost area supplement (HCAS)?

Yes, for staff where the contractual work base is within a high-cost area.

Can they claim travel expenses?

Section 17:15 of the NHS TCS Handbook sets out that mileage will be reimbursed for miles “in excess of the home to agreed work base return journey”. For agile/hybrid workers this means they would not be able to claim travel expenses from home to their contractual work base (employer site) as general commute.

If the contract is amended to include a contractual work base of home, may be able to claim expenses from home to any other business premises on days when working from home subject to local agreement on thresholds.

Tax exemption will not apply as there is no objective requirement to work from home.

Example 4 - Agile/Hybrid working – at request of employee

Do you need to amend contractual place of work?

Unlikely, as the designated contractual work base will usually be at one of the employer's sites.

Ensure contracts include a mobility clause requiring work from all trust / integrated care system (ICS) premises if requested and consider any flexibility required with the working pattern.

What process should be followed?

Employees also have the right to request under the flexible working procedure as per [sections 35.20 to 35.22](#) and [section 33](#) of the NHS TCS Handbook.

Are they entitled to high-cost area supplement (HCAS)?

Yes, for staff where the contractual work base is within a high-cost area.

Can they claim travel expenses?

Section 17:15 of the NHS TCS Handbook sets out that mileage will be reimbursed for miles “in excess of the home to agreed work base return journey”. For agile/hybrid workers this means they would not be able to claim travel expenses from home to their contractual work base (employer site) as general commute.

Tax exemption will not apply as there is no objective requirement to work from home.

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