

A photograph of a man with glasses and a beard, wearing a light blue button-down shirt, sitting at a desk and smiling while looking at a laptop. He is holding a blue pen in his left hand. The background shows a white door and a framed picture on the wall. The image is overlaid with a dark blue diagonal shape on the left side, which contains the text.

# HR CHECKLIST

Adapting your contracts and policies  
to embed home and hybrid working

[www.makeuk.org/hr-services](http://www.makeuk.org/hr-services)

**As HR managers consider the future of home and hybrid working, there can be little doubt that for most organisations it's here to stay. Embedding home and hybrid working into your established working practices for the long term will require you to take a detailed look at your contractual and non-contractual documentation, including handbooks, policies and procedures. You will need to take a holistic view to ensure that your relevant HR-related documentation aligns with your strategic approach to home and hybrid working and is fair, consistent and legally compliant. In addition, you need to be confident that you retain appropriate control over how home and hybrid working arrangements operate in practice.**

---

## **Purpose of this Checklist**

This Checklist assumes that you already have a Home and Hybrid Working Policy. In this Checklist, we identify other key documents to review in order to ensure they are aligned. We highlight where you may need to make changes to your contracts and policies, as well as the issues you need to take into account when deciding your approach and operating the policies in practice.

The Checklist covers key HR and employment law points that we think most organisations will need to consider, but you will need to decide which issues are relevant to you and what approach you will take to them based on your strategy for home and hybrid working and your organisational culture more generally. You will need to follow the usual processes in order to make contract and policy changes (including, potentially, consulting with a recognised trade union, an employee forum, or employees directly).

---

## Contract of employment (and offer letter)

Issue	Considerations
<p>Identifying the employee's <b>place of work</b> is essential in any working arrangement but it takes on particular importance for home and hybrid workers.</p>	<ul style="list-style-type: none"><li>• An employee's place of work must be included as one of the elements of a 'section 1 statement' under the Employment Rights Act.</li><li>• You must provide details of any change to the section 1 statement particulars in writing. This requirement is likely to be triggered when an existing employee moves from being based at your premises to a home or hybrid working arrangement.</li><li>• Template contracts for new starters should also be adapted to include appropriate options for use where employees are recruited on a home or hybrid working basis.</li><li>• For fully home-based employees, the contract should specify that the employee's place of work is their home address.</li><li>• For hybrid working arrangements, the contract should make clear that the place of work includes two locations – your premises and the employee's home address (and may set out how the employee's time will be split between the two – see below, 'Clarity as to the employee's hours of work').</li></ul>
<p>You are likely to want to retain some control over the employee's <b>attendance</b> at your premises</p>	<ul style="list-style-type: none"><li>• It would be reasonable for employees who are fully home-based not to expect to spend much time at your premises. However, you may need them to come in on occasion, e.g. to attend meetings or training sessions, or for operational reasons such as covering for colleagues.</li><li>• Similarly, you may sometimes need employees on hybrid working arrangements to attend your premises at additional times when they would normally be working at home.</li><li>• Including a contractual requirement for the employee to attend your premises from time to time upon request – possibly specifying how much notice you will aim to give of any such requirement – will help to set expectations and give you the control that you need.</li></ul>
<p>Clarity as to the employee's <b>hours of work</b></p>	<ul style="list-style-type: none"><li>• As with place of work, hours of work must be specified as one of the section 1 statement particulars.</li><li>• Many existing employees who move to a home or hybrid working arrangement will keep working the same hours as when they were based at your premises, but some may also have changes to their hours as part of their new working arrangement. If they do, you will need to provide details of the change in writing to comply with the section 1 statement requirements.</li><li>• For new starters, you will need to ensure that the contract is clear about their hours of work and any impact of home or hybrid working.</li><li>• In addition, setting clear parameters for working hours is important both from an operational perspective and also for the employee's wellbeing (to avoid the negative consequences of a blurring of home and work life).</li><li>• You will need to consider the extent (if any) to which the employee can flex their hours of work/has autonomy over their hours and whether there are any core business hours during which they must be available.</li></ul>

Issue	Considerations
<p>The employee may need access to <b>equipment</b> when working from home and home working may involve <b>additional expenses</b> for them.</p>	<ul style="list-style-type: none"> <li>• Much like for employees who work at your premises, you are likely to need to provide certain essential equipment, such as a laptop and company mobile phone, in order for the employee to be able to work effectively from home (and hybrid workers may need to transport such equipment between their home and your premises).</li> <li>• You are not obliged to fully kit out a home office space for the employee, but some employers do offer to provide (or contribute to the cost of) key items such as a desk, chair, etc. in order to facilitate or improve the employee's home working environment, thus benefiting both productivity and employee wellbeing.</li> <li>• It is worth specifying in the contract what equipment you will provide and that it will remain the property of the company (which the employee will have to return if their employment terminates – or, for certain equipment, if their home or hybrid working arrangement ends and they transition to working from your premises).</li> <li>• Employees who work from home, whether all the time or on a hybrid basis, may incur additional expenses, e.g. for heating, lighting and internet access. There is no legal requirement for you to contribute towards these costs and nor are you legally required to reimburse or contribute towards a home or hybrid worker's travel costs when they attend your premises. However, if you plan to do so, you should set out relevant details in the contract and cross-refer to your expenses policy for details of any conditions that may apply where an employee incurs a cost and then seeks reimbursement from you. You should check whether this is consistent with your current expenses policy and ensure that any changes are reflected there too (see below).</li> <li>• You may need to speak to your accountants/tax advisers about the potential tax implications of any arrangements you put in place regarding provision of equipment or payment of expenses for home and hybrid workers.</li> </ul>
<p>Your duty to provide a <b>safe working environment</b> also extends to the employee's home workplace.</p>	<ul style="list-style-type: none"> <li>• As an employer, you have the same health and safety responsibilities for home and hybrid workers as for any other workers and these include a need to control the risks associated with using display screen equipment.</li> <li>• The Health and Safety Executive stated that home workstation risk assessments were not required for those working at home temporarily (as, for example, many employees did during the Covid-19 pandemic). However, conducting a home workstation risk assessment is recommended where you are putting in place long-term home or hybrid working.</li> <li>• Including a right in the employment contract for you to enter the employee's home by arrangement will ensure that you have the access you need to carry out any necessary risk assessments.</li> <li>• (Note, you should also ask your health and safety team to consider whether any consequential changes to your health and safety policy are required.)</li> <li>• Make UK provide <b>DSE elearning</b> or can provide advice and support to help you meet your responsibilities. Call 0808 168 5874 to find out more.</li> </ul>

Issue	Considerations
<p>You remain the ‘controller’ of <b>personal data</b> that the employee processes in the course of their work at home.</p>	<ul style="list-style-type: none"> <li>• Under the UK General Data Protection Regulation (UK GDPR), as controller of personal data, you are under a legal obligation to keep that data secure. This means that you must take steps to ensure the data is not lost, destroyed or damaged and is only available to people on a need-to-know basis.</li> <li>• Whereas you can easily implement – and monitor the effectiveness of – strict data security measures at your premises, e.g. locking away hard copy files, controlling access to areas where personal data is processed, etc., you have less control over the way in which employees working remotely keep personal data secure.</li> <li>• By including express contractual obligations on the employee to keep personal data secure in their home working environment and to comply with your applicable IT security and data protection policies, you will both provide clarity as to what is expected of the employee and also ensure you are able to take disciplinary action against the employee should they fail to comply.</li> </ul>
<p>You may be concerned about how to manage the situation if it turns out that the <b>home or hybrid working arrangement is unsuccessful, or</b> role or business changes mean that home or hybrid working is <b>no longer practical</b>.</p>	<ul style="list-style-type: none"> <li>• There are many reasons why a home or hybrid working arrangement might not quite work in the way it was intended. For example, an employee’s performance while working remotely might dip below acceptable levels, or they might fail to communicate proactively with their wider team. Equally, a change to the employee’s role, or to your organisational structure, may make a home or hybrid working arrangement that had previously worked well impractical going forwards.</li> <li>• Specifying in the contract that the home or hybrid working arrangement will be subject to an initial trial period, with the employee being required to transition to working from your premises in the event that you consider the trial to have been unsuccessful, will help you to retain control should things not go as planned.</li> <li>• You may also wish to reserve a right to require the employee to move to working from your premises in other designated circumstances, such as where changes to the role or organisational changes make home or hybrid working impractical, or where the employee’s performance or conduct drops below required levels. (Note that you should exercise caution when seeking to rely on such a right to change the employee’s workplace and should always follow a fair process, in order to minimise legal risk.)</li> </ul>



## Disciplinary and grievance policies

Issue	Considerations
<p>Certain aspects of <b>disciplinary and grievance investigations</b> may be <b>difficult to conduct remotely</b>.</p>	<ul style="list-style-type: none"> <li>• HR and line managers who are working from home should generally be able to conduct investigations into grievances or alleged misconduct remotely, provided they have access to relevant technology and materials. For example, if an investigating manager needed to review social media posts or emails, they could presumably do this from home. On the other hand, inspecting the site of an alleged act of misconduct could not be done remotely</li> <li>• Where the person who would be the investigating manager is a home worker, and the investigation cannot be carried out remotely, are they able to attend your premises to carry out a site inspection, or other relevant activities, if required? If not, might it be better for another manager, who can attend the site, to run the investigation? Or should part of the investigation be delegated to another manager who is based at your premises and can report back to the investigating manager?</li> <li>• Where the investigation requires you to examine an employee's work computer or other device, this may involve a home-based employee having to send in the computer/device for inspection. Whether or not you expressly deal with this in your policy, an instruction to send these items in for investigation would be a reasonable management instruction. You will, however, need to bear in mind that the time it takes for the items to reach you may slow the investigative process.</li> <li>• Even where the investigating manager is a home worker and the investigatory meeting could in theory be held remotely, it may in some cases be more effective to hold such a meeting in person, for example if the person being interviewed is not used to remote meetings because they do not work from home (e.g. a production operative) and would therefore be more comfortable and open in an in person meeting. See also below for further discussion about the location and arrangements for disciplinary and grievance hearings, which would also apply to investigatory meetings.</li> </ul>
<p>The circumstances in which <b>suspension during a disciplinary investigation (and proceedings)</b> is appropriate may not be clear-cut.</p>	<ul style="list-style-type: none"> <li>• Where an employee on a home working arrangement is accused of misconduct in circumstances such that, if they were working at your premises, they would be suspended during disciplinary investigation/proceedings, you may need to consider the impact of their home working arrangement on the appropriateness of the suspension. For example, if the concern is the threat of physical violence in the workplace, the fact that the employee is a home worker may mean they do not need to be suspended. However, if the concern is bullying or intimidation of other employees with whom they work remotely, or the destruction of electronic evidence of misconduct, the fact that the employee is a home worker would not in itself prevent suspension being appropriate.</li> <li>• Similarly, where an employee on a hybrid working arrangement is accused of misconduct in circumstances such that, if they were working fully at your premises, they would be suspended, you may need to consider the impact of their hybrid working arrangement on the appropriateness of the suspension. The question would be whether an instruction to work fully from home, rather than splitting time between home and your premises (assuming such an instruction were feasible) would be more reasonable than a suspension. The same type of factors as above with regard to home workers would, however, need to be considered, and it may be that the problems posed by the employee continuing to work, even if fully remotely, still justify suspension.</li> <li>• A well-written disciplinary policy will include a provision stating that you have the right, depending on the circumstances and where it is appropriate, to suspend an employee during an investigation/proceedings. It is probably unnecessary to add to your policy details of the points discussed above, but you will need to take them into account when considering the suspension of a home or hybrid worker.</li> </ul>

Issue	Considerations
<p>You will need to consider where is the most <b>appropriate location for disciplinary and grievance hearings</b> to be held when some or all of the participants are home or hybrid workers and, if the meeting is to be held remotely, the most appropriate arrangements.</p>	<ul style="list-style-type: none"> <li>• Most employers are likely to wish to maintain flexibility about where disciplinary and grievance hearings may take place (i.e. remote or in person at the employer's premises, as appropriate depending on the circumstances).</li> <li>• In order to maintain the flexibility to choose the most appropriate location for a disciplinary or grievance hearing in each case if one or more participants is a home or hybrid worker, you should specify in your policy that a hearing may be either remote or in person, at your discretion, and that home or hybrid workers may be required to attend your premises for hearings that are in person.</li> <li>• When considering whether to hold a disciplinary or grievance hearing remotely or in person, bear in mind that if the employee concerned is not used to remote meetings because they do not work from home (e.g. a production operative), an in person meeting may be more appropriate.</li> <li>• When scheduling remote meetings, you will need to ensure that all parties (including the employee's companion, if they are exercising their right to be accompanied) have access to the necessary technology to enable them to fully participate in the hearing, as well as any relevant materials. You will also need to take into account whether any participant has a disability or other accessibility issue that could affect their ability to use video conferencing technology and whether any reasonable adjustments might be required as a result. You may wish to state in your policy how you will facilitate appropriate access to technology and materials, as well as setting rules on the conduct of remote meetings, e.g. providing that nobody else can be in the room (both for data protection reasons and to avoid the employee having any coaching on their answers).</li> <li>• If you hold a hearing remotely and any of the participants appears upset or distressed during the meeting, you should consider whether and, if so, how you will follow up to check on their wellbeing and offer support after the hearing if appropriate.</li> <li>• Note that, in the disciplinary context, there may be concerns around holding a hearing remotely where an employee is accused of gross misconduct and a likely outcome of the hearing could be dismissal. However, holding a hearing remotely should not of itself make a dismissal unfair, provided that all other procedural steps are taken correctly, e.g. there has been a thorough investigation, the employee has been given full details of the allegations against them and had time to consider those allegations, the employee is able to be accompanied during the hearing, etc.</li> <li>• If the employee's chosen companion for a disciplinary or grievance hearing is a home worker, they might be reluctant or unable to attend your premises for an in person hearing (e.g. if they live far away). The legislation does not provide an exception which allows an employer to require an employee to pick another companion because their attendance in person is logistically difficult or inconvenient. Depending on the circumstances, you could consider: <ul style="list-style-type: none"> <li>– delaying the hearing for a short period if the companion will then be able to attend in person (e.g. if they attend your premises on a fortnightly basis, say, you may be able to time the hearing to coincide with their next visit);</li> <li>– paying the companion's travel expenses to attend in person on a one-off basis; or</li> <li>– facilitating the companion attending remotely.</li> </ul> </li> </ul> <p>You are unlikely to state in your policy how you will approach this scenario but you should give it appropriate consideration if the situation arises.</p>

Issue	Considerations
<p>If you have an <b>anti-bullying/harassment policy</b>, which is separate from your general grievance policy, you will also need to ensure that this policy works in the context of home and hybrid working.</p>	<ul style="list-style-type: none"> <li>• The same points as above regarding investigations, suspension, location of and arrangements for meetings apply.</li> </ul>

## Sickness and absence management policies

Issue	Considerations
<p>Employers will want to <b>prevent</b> employees with home or hybrid working arrangements <b>working from home while too unwell to do so</b>.</p>	<ul style="list-style-type: none"> <li>• The issue of ‘presenteeism’, where employees continue to attend work despite feeling unwell, has long been a concern for HR. It is often prompted by employees wishing to avoid a reduction in pay during periods of illness (particularly where their employer pays SSP only) and/or racking up days of absence that count towards the trigger points in an absence management procedure.</li> <li>• You may be concerned about an increase in presenteeism among home or hybrid workers, due to their illness being less visible or their perception that, without the risk of passing on their illness at your premises, there is no issue with them continuing to work while unwell.</li> <li>• Problems you may face with regard to presenteeism and home and hybrid working include:             <ul style="list-style-type: none"> <li>– reduced productivity or poor quality work output from employees working at home while unwell;</li> <li>– the possibility of employees damaging their health further/burning out;</li> <li>– you missing out on important information regarding employees’ health (e.g. an underlying medical condition, need to refer to Occupational Health, consider reasonable adjustments, etc.); and</li> <li>– potential employee relations issues if home and hybrid workers are permitted to work remotely while unwell, thereby avoiding any reduction in pay/ hitting absence management trigger points, whereas workers at your premises must go off sick when they are unwell and suffer the consequences.</li> </ul> </li> <li>• In order to address these issues, you may wish to amend your sickness/absence management policy to make clear that if an employee is sufficiently unwell that they would not be able to work effectively on any given day, they must follow your usual sickness absence reporting procedures and not simply work through their illness (including from home).</li> <li>• It may also be worth considering training your line managers to avoid promoting a culture of presenteeism and ensure that they do not impose any expectation for home and hybrid workers to work from home when unwell.</li> </ul>



Issue	Considerations
Employers will want to <b>avoid</b> home and hybrid workers taking <b>unnecessary sick leave</b>	<ul style="list-style-type: none"> <li>• Whilst the main concern with regard to home and hybrid workers will be presenteeism (see above), it is worth recognising that there will be circumstances in which a home or hybrid worker has a mild illness, e.g. a cold, and is able to work effectively from home, even though, if they were working on your premises, they would not attend work due to concerns (particularly in the current Covid-19 climate) about symptoms/being infectious to others. (Note also in this context that SSP for Covid-19 self-isolation is not payable where the employee is well enough to work and is able to work from home.)</li> <li>• The suggestion above (see ‘Employers will want to prevent employees with home or hybrid working arrangements working from home while too unwell to do so’) to specify the circumstances in which an employee will be considered unfit for work, i.e. when they are too unwell to work effectively, should help home and hybrid employees strike the right balance in deciding whether to take sick leave when they have a mild illness, but inevitably there will be grey areas.</li> </ul>
The operation of <b>return to work meetings</b> may need to be considered	<ul style="list-style-type: none"> <li>• Where an employee on a home or hybrid working arrangement has been off sick, you should hold a return to work meeting with them, as you would for any other employee. However, home workers will expect such meetings to be held remotely, as will hybrid workers if they return to work on a day when they would usually be working at home. You may wish to make reference in your policy to how such meetings will be conducted.</li> </ul>
You will need to consider where is the most <b>appropriate location for attendance review meetings</b> to be held when some or all of the participants are home or hybrid workers.	<ul style="list-style-type: none"> <li>• In order to maintain the flexibility to choose the most appropriate location for an attendance review meeting under your attendance management procedure (i.e. where an employee has hit a trigger point in respect of frequent short-term absence levels) in each case if one or more participants is a home or hybrid worker, you should specify in your policy that such meetings may be either remote or in person, at your discretion, and that home or hybrid workers may be required to attend your premises, or meet with you at their home or another location, for meetings that are in person.</li> <li>• See the section on ‘Disciplinary and grievance policies’, above, for discussion of additional issues around the location of meetings, e.g. in relation to access to technology for remote meetings and ensuring that the employee’s companion can participate where relevant.</li> </ul>

## Equality policies

Issue	Considerations
Your obligation as an employer to <b>prevent discrimination, harassment and bullying</b> (under the Equality Act and more generally) extends beyond your premises.	<ul style="list-style-type: none"> <li>• Most employers will have an equality policy (and potentially an anti-bullying/harassment policy) that sets out their commitment to preventing discrimination, harassment and bullying. Such policies typically refer to the employer ensuring that “the workplace” is free from discrimination.</li> <li>• With more employees working on a home or hybrid basis, it is important to bear in mind, and make clear in the relevant policies too, that “the workplace” is now a broader concept than your premises and extends to these employees’ home workplaces too.</li> </ul>

Issue	Considerations
<p>You must ensure fair and <b>equal treatment and opportunity for all employees</b>, not just those in the workplace.</p>	<ul style="list-style-type: none"> <li>• Your responsibility as an employer to ensure your employees are treated equally means that you should take care to treat employees on home or hybrid working arrangements in the same way as employees working from your premises, including in respect of reward and recognition and access to training and promotion opportunities.</li> <li>• Failure to do so could potentially give rise to a risk of indirect sex discrimination, since it is likely that more female than male employees will work from home or on a hybrid basis, or indirect disability discrimination if a greater proportion of disabled employees work from home or on a hybrid basis.</li> <li>• One important pitfall to be aware of is what's known as 'visibility bias', whereby managers distribute the best work, or offer training or other opportunities, to the employees they see most regularly in person. It is worth training managers to be aware of this and encouraging them to schedule team meetings and regular individual catch-ups so that workstreams and opportunities can be discussed with all team members equally.</li> <li>• It is possible that certain training courses may need to be undertaken in person, or that particular roles to which promotion becomes available may not be compatible with home or hybrid working. Accordingly, while access to such opportunities will be offered equally to home and hybrid workers, full participation may require them to attend your premises (which for training is likely to be on a temporary basis, but for promotion may involve a permanent change to terms and conditions).</li> <li>• If you have an equality policy that addresses issues beyond the prevention of discrimination on the basis of protected characteristics covered by the Equality Act, you could consider updating this with a statement confirming that home and hybrid workers will be offered equal access to e.g. training and promotion opportunities and will receive equal treatment generally.</li> </ul>
<p><b>Access to home and hybrid working</b> should be offered fairly.</p>	<ul style="list-style-type: none"> <li>• For home and hybrid working to be a success, you need to take care to implement it fairly – including providing fair access to home and hybrid working opportunities and ensuring that your decisions on employee requests for home and hybrid working are consistent and transparent and not discriminatory.</li> <li>• It is important that you avoid making assumptions about who does and does not want to work remotely based on stereotypes or statistics, e.g. assuming that a disabled employee with mobility issues would prefer to avoid coming in to your premises for work, or that a female employee with children will want to work from home for childcare reasons.</li> <li>• Where employees are unable to undertake home or hybrid work due to the nature of their role or personal circumstances, you may wish to consider offering or promoting access to other forms of flexible working.</li> <li>• You could include a statement about your approach to these issues in your equalities policy.</li> </ul>

## Appraisals and performance management policies

Issue	Considerations
<p>It may be difficult to <b>assess</b> the <b>performance</b> of home and hybrid workers in the same way as for other workers.</p>	<ul style="list-style-type: none"> <li>• Employees on home and hybrid working arrangements should have their performance assessed and measured like any other employees.</li> <li>• Where employees work from your premises, informal appraisal/supervision is generally facilitated by regular day to day contact between them and their manager. Systems will usually be in place to gather the information required for formal appraisals that may be based on measuring the quality and/or quantity of employees' output as observed by their manager.</li> <li>• If managers do not have the same level of visibility over the work of home or hybrid working employees, this could potentially make it difficult to provide informal appraisal/supervision on an ongoing basis and to assess employees' performance for formal appraisals in the same way as they do for employees in the workplace, depending on the mechanisms used.</li> <li>• It is therefore important to agree a suitable system for supervision, support and appraisals when you first implement any home or hybrid working arrangement in order to ensure that everyone knows what is expected of them and to avoid any discrimination risk. Note that when performance cannot be easily observed, there may be a particular reliance on metrics, outcomes and results.</li> <li>• The use of software/technological solutions to monitor any aspect of employees' work or performance when they are working remotely raises data protection issues. Under the UK GDPR, you would need to be able to justify why such monitoring is necessary. In general, the Information Commissioner's Office (ICO) recommends that monitoring is kept to a minimum and is only used where you cannot achieve your purpose in any less intrusive way. You would be required to conduct a data protection impact assessment (DPIA) before beginning any monitoring and you would also need to ensure that you provide employees with information about how you process the data obtained via any such monitoring. Introducing this type of monitoring may also raise other issues, especially if home and hybrid workers are treated differently from those who work at your premises. We recommend that you seek specific legal advice if you are considering monitoring your employees in this way.</li> </ul>
<p>You will need to consider where is the most <b>appropriate location for performance review meetings</b> to be held when some or all of the participants are home or hybrid workers.</p>	<ul style="list-style-type: none"> <li>• In order to maintain the flexibility to choose the most appropriate location for performance review meetings in each case if one or more participants is a home or hybrid worker, you should specify in your policy that a meeting may be either remote or in person, at your discretion, and that home or hybrid workers may be required to attend your premises for meetings that are in person.</li> <li>• See the section on 'Disciplinary and grievance policies', above, for discussion of additional issues around the location of meetings, e.g. in relation to access to technology for remote meetings and ensuring that the employee's companion can participate where relevant.</li> </ul>
<p>You will need to consider how your <b>right to require the employee to return to working from your premises relates to fair performance management</b></p>	<ul style="list-style-type: none"> <li>• Whilst it is useful to reserve the right to require the employee to return to working at your premises where performance is unsatisfactory (see 'Contract of employment (and offer letter)' above), you should take advice before relying on that right and you should ensure that it doesn't undermine your performance management policy, e.g. by preventing the employee being given sufficient opportunity to improve.</li> </ul>

## IT security and data protection policies

Issue	Considerations
<p>Home working can give rise to different <b>IT security and data protection risks</b> from those that apply at your premises.</p>	<ul style="list-style-type: none"><li>• As noted under ‘Contract of employment (and offer letter)’, above, under the UK GDPR, you remain the ‘controller’ of personal data that the employee processes in the course of their work at home and you are responsible for keeping that data secure.</li><li>• As well as including a specific contractual obligation on home and hybrid workers to keep personal data secure in their home working environment and to comply with your applicable IT security, data protection, electronic communications and any other relevant policies, you will need to ensure that these policies are up-to-date and address the particular security risks that may arise in the context of home working.</li><li>• For example, you might wish to include the following points in your policies (note, this list is non-exhaustive and there may also be other points you wish to cover):<ul style="list-style-type: none"><li>– expressly restrict staff to video conferencing platforms that are suitable for business use;</li><li>– advise staff not to use a speakerphone or conduct work-related conversations in the presence of smart speakers or home surveillance (such as Amazon Echo, or Google Home);</li><li>– encourage staff to position screens and papers so they can’t be read by others and remind them to lock their computer screen when they take breaks;</li><li>– require staff to tidy up and lock away papers and devices at the end of the day;</li><li>– provide instructions on how personal data should be disposed of once it is no longer needed, e.g. specify whether hard copy documents containing such data should be shredded by the employee at home (if so, will you provide a shredder?), or safely stored until they can be returned to your premises for shredding; and</li><li>– require staff to keep their laptop and other devices with them when they travel and not leave them unattended at any time.</li></ul></li></ul>
<p>Complying with your obligations in relation to investigating and reporting <b>personal data breaches</b> may be more challenging in the context of home working.</p>	<ul style="list-style-type: none"><li>• Under the UK GDPR, you are required to report a personal data breach (i.e. a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data) to the ICO within 72 hours of becoming aware of it, unless the breach is unlikely to result in a risk to the rights and freedoms of individuals. If a breach is likely to result in a high risk to the rights and freedoms of individuals, you are also required to report the breach to those affected without undue delay.</li><li>• Where you discover that a personal data breach may have occurred, you must investigate immediately to determine whether there has been a breach and, if so, whether it is one that you must report. In some circumstances, however, remote working could mean that an investigation into whether there is a reportable breach takes longer. For example, if you need to examine the actual device that was involved in a breach, you would need to retrieve it from the employee’s home. Or if say it is not immediately clear whether a system has been hacked, or similar, because a home worker wasn’t using a VPN but just their own wi-fi connection, or because IT support is less readily available, then you may find your investigation is more complicated.</li><li>• You should check that your data protection policy makes clear to all employees who they should contact in the event that they discover a possible personal data breach and the importance of doing so immediately, including when working at home.</li><li>• If you also have a more detailed internal guidance document addressed to those within your organisation who would be responsible for investigating any potential breach, you may need to update it to reflect any changes to the process that may be required in the context of home working and to provide training on any adjustments. You could also consider circulating the guidance document and contact details for the breach investigation team in hard copy to home and hybrid workers in case IT systems are unavailable due to a personal data breach.</li></ul>

## Expenses policies

Issue	Considerations
It is important to <b>be clear which</b> , if any, of the additional <b>expenses</b> incurred by home and hybrid workers <b>you will cover</b> and <b>any conditions</b> that may apply.	<ul style="list-style-type: none"><li>• There is no legal requirement for you to contribute towards additional costs incurred by home and hybrid workers when working from home (such as heating, lighting, broadband, etc.). Nor are you legally required to reimburse or contribute towards a home or hybrid worker's travel costs when they attend your premises on a day when they would normally work from home.</li><li>• However, as noted under 'Contracts of employment (and offer letter)', above, if you do decide to cover any of these costs, we recommend setting out the relevant arrangements in the contract and cross-referring to your expenses policy for details of any conditions that may apply to employees' claims for reimbursement (e.g. a requirement to provide itemised bills, or to submit any claims within a certain timeframe). You may therefore need to update your expenses policy to ensure that these matters are addressed.</li><li>• You may need to speak to your accountants/tax advisers about the potential tax implications of any arrangements you put in place regarding provision of equipment or payment of expenses for home and hybrid workers.</li></ul>

## Dress codes

Issue	Considerations
You should consider whether you wish to require employees to adhere to workplace <b>dress codes</b> <b>when working from home</b> .	<ul style="list-style-type: none"><li>• It is generally up to employers whether to set and enforce workplace dress codes, although the law does prohibit dress codes that discriminate (e.g. on grounds of sex or religion/belief) or that contravene health and safety requirements.</li><li>• If you have a dress code that applies to employees working from your premises, you should consider whether you also wish to require employees to comply with it when working from home, either all of the time, or in particular circumstances such as when attending virtual client meetings via videoconference.</li><li>• You should ensure that you update your dress code as appropriate based on your decision so that home and hybrid workers know what is expected of them.</li></ul>

### Disclaimer

This Checklist covers employment law issues arising in the context of home and hybrid working. It does not cover health and safety or tax law issues. It is based on applicable law and Government guidance available as 2 December 2021. It does not constitute legal advice and should not be relied upon as such.



# GREAT MINDS DONT THINK ALIKE

**That's why we bring the best  
expertise in Legal Services  
& HR Consultancy, together.**

The expertise of a law firm with the practical experience of an HR consultancy.

We understand the ever-shifting complexity of HR and Employment Law and the pressures this can create. Make UK Legal Services brings together a highly qualified team of employment lawyers and HR specialists to give you the in-depth support you need. Combining the expertise and capabilities of a law firm with the practical experience of an HR consultancy, between us we have over 280 years' experience to back your business.

If you would value expert support, help and advice with HR and employment law questions, strategy or training, our expert team are ready to help.

**Call us: 0808 168 5874**

**Email us: [enquiries@makeuk.org](mailto:enquiries@makeuk.org)**

**[www.makeuk.org/hr-services](http://www.makeuk.org/hr-services)**

