



# HOME AND HYBRID WORKING.

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**As an HR Manager or Director, the rapid shift to home and hybrid working puts you in the driving seat of creating a new working environment. Such changes bring challenges and opportunities for all and how you manage the transition will be key to determining how productive, successful and happy your workforce is moving forward.**

Given the potential scale of home and hybrid working, the nuances of how you organise and manage your working practices will make all the difference to the success of your arrangements.

In this manual, you'll find expert guidance on how to make sure your practices are legally compliant and hacks from our experts on how to keep up productivity, improve employee engagement and future-proof your practices.

# HOME AND HYBRID WORKING HEADLINES

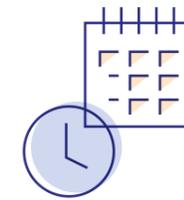
Many of the steps that are necessary for the successful implementation of home and hybrid working are ones that HR will be familiar with as they are common to any exercise that involves changing working practices. However, there are some key issues that are particular to introducing or formalising home and hybrid working arrangements:

## The process

Whether the move to home or hybrid working comes from you or the employee, you will need to ensure that you follow the relevant legally compliant process (e.g. statutory flexible working requests, or a changing terms process).

## The Ts&Cs

It is essential to ensure that the terms and conditions that will apply to the employee's working arrangements cover certain key matters – for example:



### Be clear on the days and hours of work

Drawing clear lines between work and home is important for employees' wellbeing, but equally you need to ensure that the employee is available for any core business hours so that the necessary work gets done; having clarity on the days and hours of work upfront is therefore essential.



### Identify what equipment you will provide for employees working at home

Much like in the workplace, you need to provide certain essential equipment in order for the employee to be able to work from home and ensure they know how to use it (though this doesn't mean you have to fully kit out an employee's home office space!)



### Consider homeworking-specific expenses

Employees will incur additional costs when working from home, e.g. for energy, internet, or to create the right working environment. Employers can agree upfront to contribute to some or all of the costs if they wish. This is not a legal requirement and factors such as the cost savings to the employee of no commute and associated travel expenses can be used in mitigation – however, agreeing to cover homeworking expenses can benefit the employer in terms of employee engagement, retention and recruitment.

### Take care about equality

Ensure that those who are on home or hybrid working arrangements have the same opportunities as those in the workplace (e.g. to access training and promotion).

### Ensure GDPR compliance

Your responsibilities for GDPR compliance and data security extend into the home working environment too, so you will need to have appropriate training, policies and systems in place.

### Promote employee engagement

Communication can have a big impact on the way work is done, how relationships are maintained and how supported employees feel, so it's essential to make communication as seamless as possible between employees in the workplace and those who are working remotely.

### Conduct a risk assessment

As the employer, your duty of care from a health and safety perspective extends into whatever working environment your employees are in.



## HYBRID HACK #1

### KEEP YOUR OPTIONS OPEN WITH A TRIAL PERIOD

Not all jobs and people are suitable for home working. A trial period with clear parameters for both parties gives you the opportunity to see how well the arrangement works without committing to it permanently. Make sure you are clear on the working arrangements, the length of the trial and the factors that are going to determine the outcome.



# THE LEGAL REQUIREMENTS

### Your main legal concerns will be:

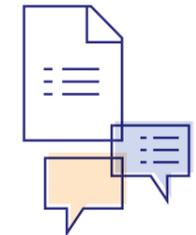
- How you manage requests for home and hybrid working.
- Terms to cover in the contract of employment.
- Broader legal requirements such as ensuring equality and GDPR compliance.

### Managing employee requests for home and hybrid working

Current employees whose contracts of employment provide that their place of work is the employer's premises do not have any automatic legal right to work from home, either some or all of the time.



For employees who worked at home throughout the Covid-19 pandemic while the Government guidance to work from home if possible was in place, there would have been no change to their contract. Their remote working was a temporary arrangement based on applicable health and safety guidance; legally, their place of work would still be the employer's premises.



Employees who have continued to work from home following the end of that Government guidance may have developed an expectation that they remain entitled to work from home in the longer term unless their employer has communicated an intention to have them return to working at the employer's premises (which could be a gradual return). Whether or not there has been a variation of employees' contracts in such cases will depend on the circumstances and the length of time for which they continue to work remotely after the removal of the Government guidance. We recommend that you seek advice on your particular situation.

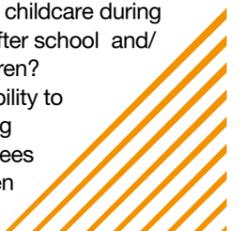


## HYBRID HACK #2

### SET YOUR HOMEWORKING EXPECTATIONS

Not everything that was acceptable during periods of enforced homeworking is likely to be acceptable moving forward. Ensure your expectations are set out clearly in your policies and managers and employees fully understand the implications for them.

For example - Outside of any enforced lockdown is it okay for parents to undertake their own childcare during normal working hours, i.e. before and after school and/or throughout the day for younger children? Are working hours fixed or is there flexibility to carry out school pick-ups or other caring responsibilities? Do you require employees to comply with a dress code policy when working at home?





## HYBRID HACK #3

### MAKE FLEXIBLE WORKING EASY

Handling formal flexible working requests can be a burdensome process and may seem disproportionate for simple home and hybrid working requests. Many organisations are therefore looking at more transparent and less restrictive processes.

#### There are two areas to consider:

1. Firstly, assessing and outlining those roles that can be done using a home or hybrid working model. So, if employees decide they would like to make a request, the role outline is already set up and is easily implemented. Conversely, the reasons a role cannot be done on a home or hybrid working basis are also clear.
  2. Secondly, allowing any requests to be dealt with in a more informal manner as outlined in the company's home and/or hybrid working policy i.e. outside of the normal flexible working request process.
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#### Employee rights to request flexible working

Employees with at least 26 weeks' continuous service are legally entitled to make a statutory request for flexible working – and a request for a contractual home or hybrid working arrangement would count as such a request. This should be covered by your existing flexible working requests procedures.

That said, handling formal flexible working requests can be administratively burdensome. Some employers might choose to facilitate a **less formal process** for employees to request home and hybrid working arrangements, for example, where they don't involve any other changes, such as to the employee's days or hours of work, or where they have worked from home successfully during the Covid-19 pandemic. This could be done, for example, by way of a **discussion between the employee and their line manager**, with the agreed arrangement being confirmed by letter and being made subject to the terms of any home and hybrid working policy operated by the employer. Note, however, that if an employer were to refuse a request made in this way, we would recommend that it still identifies one of the permitted reasons for refusing a statutory flexible working request.

Where the employer agrees the employee's request for home or hybrid working, there are likely to be changes to the employee's contract to reflect the change in workplace and also certain consequential changes (see next page). It is likely to be relatively straightforward for the employer to effect these changes where the employee actually made the request for home or hybrid working.

#### Employer-led home or hybrid working

If an employer wishes existing employees whose contracts provide for them to work at the employer's premises to move (permanently) to home or hybrid working, this will amount to a change to their terms and conditions.

In many cases, employees will be happy with such an arrangement but, in order to avoid legal risk, employers should take care to seek agreement and follow an appropriate process when implementing any such changes. If employees are unhappy with the proposals, we recommend that the employer seek advice on the best way forward to minimise legal risk.

#### New starters

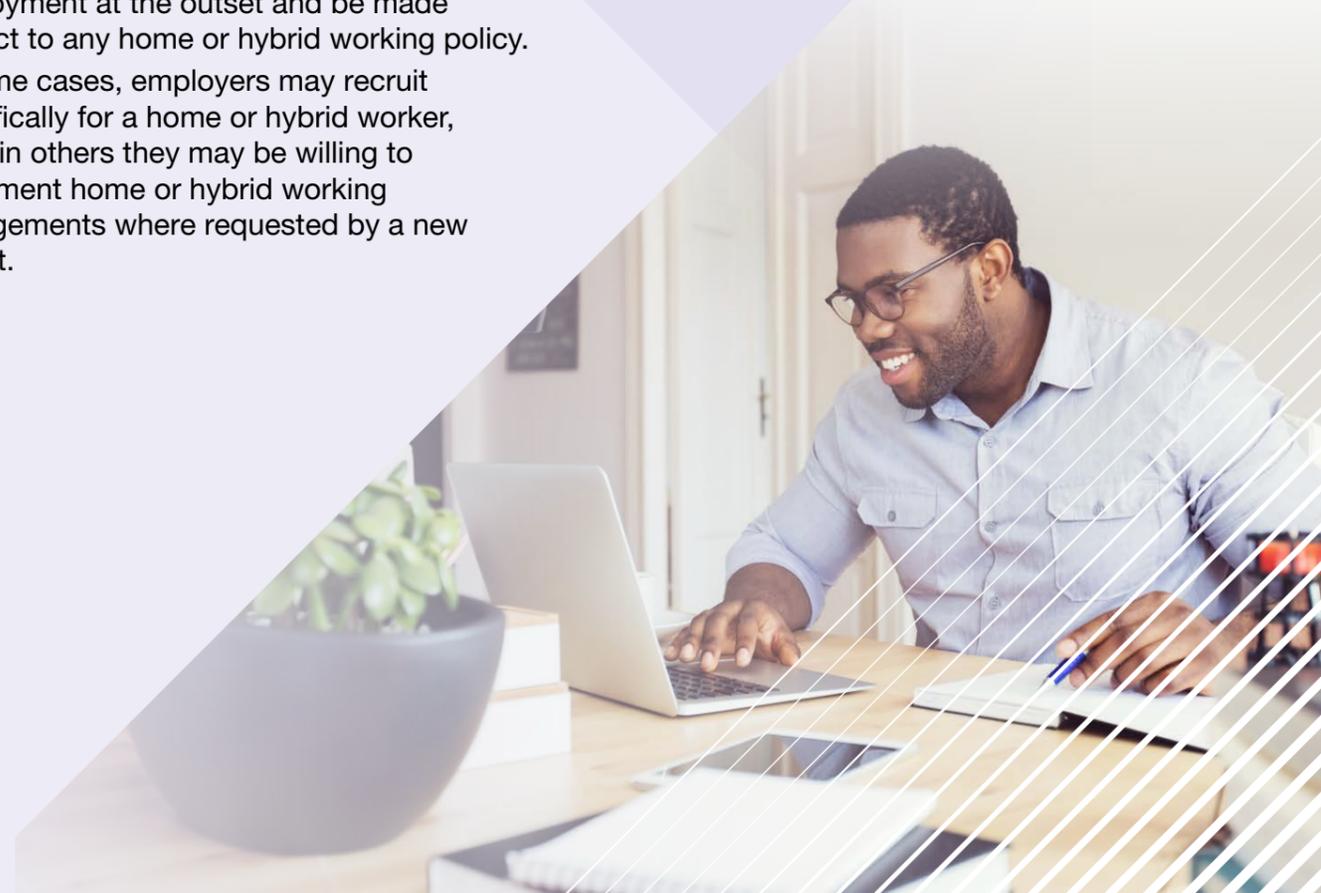
Where an employer takes on a new employee on a home or hybrid working arrangement, this should be set out in the contract of employment at the outset and be made subject to any home or hybrid working policy. In some cases, employers may recruit specifically for a home or hybrid worker, while in others they may be willing to implement home or hybrid working arrangements where requested by a new recruit.



## HYBRID HACK #4

### GET FACE-TO-FACE TIME WITH NEW RECRUITS

Actively plan team get-togethers and schedule time in the workplace to maximise overlap of key staff, so that new joiners get to know their colleagues, feel welcomed into the business and pick up essential information about your working practices.



# TERMS TO COVER IN THE CONTRACT OF EMPLOYMENT

An employee's place of work is one of the particulars that must be included in the written statement provided by the employer under section 1 of the Employment Rights Act 1996 (a 'section 1 statement').

Where there is a change to any of the particulars in a section 1 statement, the employer must provide details of the change in writing. This requirement is likely to be triggered when an existing employee moves from being based at the employer's premises to a home or hybrid working arrangement.



For fully home-based employees, the contract would specify that the employee's place of work is their home address.



For employees who enter into a hybrid working arrangement, the contract could specify two workplaces – the employer's premises and the employee's home address – and may set out how the employee's time will be split between the two.

Employers might also wish to consider imposing a requirement that the employee's home address remains within a reasonable commuting distance of the employer's premises and/or a requirement for the employee to discuss with the employer if they plan to change their home address.

(Note that different considerations will apply if an employee wishes to work from outside the UK, either on a fully home-based arrangement or on a hybrid arrangement. We recommend that employers seek advice on the legal and practical implications of such an arrangement.)

As well as specifying where the employee will be working, the employer should consider including certain other provisions in the contract of a home or hybrid worker, such as:

A requirement to attend the employer's premises from time to time, or for hybrid working arrangements, at additional times when they would normally work at home – for example, to attend meetings or training sessions or for operational reasons such as covering for colleagues;

The extent (if any) to which the employee can flex their hours of work and whether there are any core business hours during which they must be available;

Details of any equipment that will be provided by the employer, who will be responsible for costs associated with homeworking such as heating, lighting and internet access and what (if any) additional expenses the employee can claim for (e.g. travel to and from the workplace). There is no general legal requirement for an employer to contribute towards these costs, but if you are willing to do so, any agreed employer contribution should be recorded in writing. In certain circumstances, employers may be able to pay employees a tax-free allowance to cover some of the increased costs of homeworking and certain expense payments may be tax deductible; employers should speak to their tax advisers;

A right for the employer to enter the employee's home – for example to carry out health and safety risk assessments and to install, maintain, or recover its equipment;

Express confidentiality and data security clauses emphasising that it is the employee's responsibility to keep the business' confidential information and any personal data they deal with in their role secure in their home, either

setting out specific obligations in this regard or cross-referring to applicable policies that provide further details;

Provision for a trial period for the home or hybrid working arrangement, with the right for the employer to require the employee to work from its premises if the employer does not consider the trial to be successful; and

Reserving a right to require the employee to work from its premises in other defined circumstances, such as where changes to the employee's role or the employer's organisation make home or hybrid working impractical, or where the employee's performance or conduct drops below required levels. (Note that employers should exercise caution when seeking to rely on such a right and should always follow a fair process, in order to minimise legal risk.)

**HYBRID #5  
HACK**  
**GET TO GRIPS  
WITH EXPENSES**

Be clear about the tax implications of covering any expenses relating to homeworking (including any travel expenses to and from the workplace). If necessary, update your expenses policy to ensure that you treat employees consistently across the business and avoid employee relations issues.

# ADDITIONAL LEGAL REQUIREMENTS

## Equality

Your responsibilities to ensure fair and equal treatment and opportunity extend to all employees, not just those in the workplace. This responsibility covers more than who can and who can't become a home or hybrid worker. You need to ensure those working from home have the same access to training and promotion opportunities as those in the workplace.

Employees on home and hybrid working arrangements should be given supervision and support, and be subject to appraisals, in the same way as employees who work fully at the employer's premises. However, it could be that managers do not have the same level of visibility over the work of some home or hybrid working employees, which can make it more difficult to provide informal and formal supervision and to assess employees' performance in the same way as they do for employees in the workplace. It is therefore important to agree a suitable system for supervision, support and appraisals when first implementing any home or hybrid working arrangement in order to avoid any discrimination risk.

## HYBRID HACK #7 REFRESH AND REINTRODUCE STANDARDS

Enforced homeworking invariably brought a more relaxed attitude to work. So it is important to draw a line under what may have been acceptable before and refresh and reintroduce what standards and behaviours are acceptable. This is useful for new starters as well as existing staff to ensure everyone receives the same message. You should ensure that you also cover equality, diversity and inclusion, especially where employees have never been trained on the complexities of home/hybrid working in this context.

## HYBRID HACK #6 AVOID VISIBILITY BIAS

Remind managers not to fall into the trap of favouring those who they see regularly in the workplace – whether in relation to work distribution, training, or promotion opportunities. Scheduling team meetings and regular individual catch-ups where work streams and opportunities can be discussed with those at home and in the workplace should help ensure all team members are equally informed and considered.

## GDPR and data protection

Where employees are working from home, their employer remains the data controller of personal data that they process in the course of their work and is therefore still responsible for compliance with the GDPR.

Having large numbers of employees working remotely raises potential data protection issues, particularly around data security. The general requirement under the GDPR to keep personal data secure means (among other things) that employers must take steps to ensure the data is not lost, destroyed or damaged and is available to people only on a need-to-know basis.

**Homeworkers may need specific training or instructions on data protection compliance.** For example, they might need to be reminded only to use video conferencing platforms that are suitable for business use, or advised not to use a speakerphone or conduct work-related conversations in the presence of smart speakers or home surveillance (e.g. Amazon Echo, Google Home, etc.). Employers may need to instruct employees to position screens and papers so they can't be read by others and to tidy up and lock away papers and devices at the end of the day.

In addition, **employers may need to set out specific rules for disposing of personal data and confidential information** when they are no longer needed. Will employees be expected to shred hard copy documents at home (and, if so, will the employer provide the shredder)? Or will employees instead

have to return such documents to the workplace to be securely disposed of there?

It is worth ensuring that these issues are adequately covered in your policies (e.g. IT Security Policy, Home and Hybrid Working Policy, etc.) and that employees are aware of the contents of these documents.



A quick email reminder or even a short 5 minute YouTube video could be a good way to increase awareness.

## HYBRID HACK #8 PROVIDE IT SUPPORT TO ENSURE DATA SECURITY

If remote working staff need help with IT issues, it's best to make that as easily available as possible, to avoid them attempting their own workarounds which might lead to your information and systems being put at risk.

# EMPLOYEE ENGAGEMENT AND PRODUCTIVITY

The pace of the adoption of home and hybrid working has been so rapid for many organisations that there was little time to consider the impact on employee engagement and productivity. Now that the new working environment is becoming more permanent there are some important considerations you should be factoring in to your practices.

## Culture and values

Your organisational culture and values are a core reference point for how you do business. As employees spend less time in the environments that you control, maintaining and reinforcing your values and culture become more challenging. How the organisation communicates and how line managers support employees and coordinate workloads will be key. Central communications channels such as the intranet and remote working tools (such as Microsoft Teams) that enable the organisation to enhance the working environment can provide routes to translate your culture and values to digital and remote working.

## Inclusion and division

One of the most common barriers to employee engagement is the sense of potential division that could be created. Ensuring those working from home are included is key. As highlighted above, there are legal considerations to factor in, but you should also be conscious of the effect on the workforce and productivity.

The most obvious division will be between those at home and those in the office/on site. As those who are in the workplace chat informally and it's easier to discuss projects and ideas, it is important to make sure those not in the workplace aren't excluded. Including home workers via conference facilities for any formal meetings is essential, and line managers

should also be scheduling regular team catch ups and make a conscious effort to include homeworkers in conversations or have the same conversations with their homeworkers should any relevant discussions take place without them.

There is also the potential for demographic divisions, as you may find more women or more of your older workers choosing to work from home. Each organisation will be different but it would be beneficial to keep track of the make-up of your home and/or hybrid workers to identify any potential divisions that may arise.

## HYBRID HACK #9 REORIENTATE YOUR EMPLOYEES

It is important you reorientate your staff to be clear about what your culture and values mean given the changes. If you look at it as a relaunch, employees will once again be rejuvenated and bought in to supporting an inclusive culture, recognising the differences they need to adopt to do so.

## HYBRID HACK #10 SURVEY YOUR EMPLOYEES

Conducting an employee engagement survey can help you to identify what is working well and identify any measures that could improve wellbeing and engagement.

## Teamwork and collaboration

When people are in the workplace together cross-fertilisation of thought, team focus and drive and collaboration with others all happen with little consideration or effort. These attributes are all important to productivity, creativity and innovation. With some, or all, of the team working from home, managers should be creating opportunities to maintain these key components to teamwork. It is important in these scenarios that managers agree how the team will collaborate together; whether you have a split workforce or have moved solely to homeworking, a consistent approach will ensure everyone feels included. Collaboration platforms such as Slack and Trello, or group functionality on Teams, easily facilitate virtual creativity and innovation in the moment, rather than relying on scheduled virtual meetings. Whilst virtual meetings do have a place, it is still important to ensure you schedule in regular face-to-face meetings. The frequency and duration will vary, but opportunities to be with the team in-person can be invaluable.

## Don't forget the benefits

For all you and your managers may need to change and your employees need to adapt, there are great benefits for the employer and the employee. Supporting a better work-life balance for your employees and being adaptable to their needs can be a big win for recruitment and retention. As more employers now offer forms of home and hybrid working, for some roles this can be a deal-breaker for a candidate. In parallel, the benefits of home and hybrid working also mean that your existing workforce are happier and this can play a big role in retaining your talent. Employers should be using their home and hybrid working arrangements to support both recruitment and retention.

As home and hybrid working can provide a better work/life balance, give your employees flexibility and demonstrate trust between the employee and the employer, there can also be a natural boost in engagement and productivity. In addition, there should be a drop in overheads as you save on office space, expenses and associated costs.

## HYBRID HACK #11 USE HOME AND HYBRID WORKING TO SELL YOU AS AN EMPLOYER

It's a candidate's market and you need to do all you can to attract the best talent. Your home and hybrid working arrangements can be a deal-breaker, so make sure you include in any job descriptions the options available for 'location'.



## HEALTH AND SAFETY

Employers have a general duty under health and safety law to take all reasonably practicable steps to ensure a safe working environment. This applies equally for home and hybrid workers as it does for employees based at the employer's premises.

Accordingly, when taking on a new employee as a home or hybrid worker, or when an existing employee moves onto a home or hybrid working arrangement, **the employer should arrange to conduct a risk assessment** to ensure that the employee's homeworking environment is safe.

**The employer should provide health and safety training** that is appropriate to the employee's role and ensure that the employee understands that they must follow the company's health and safety policy and rules at all times.

**Any accident or incident at work that occurs in an employee's home should be reported** in the same way as an accident or incident that takes place on the organisation's premises.

There are also **specific legal obligations** relating to such issues as the safety of any equipment supplied by the employer, controlling risks related to the habitual use of display screen equipment and the provision of first aid supplies.



## HYBRID HACK #12

### SET BOUNDARIES ON WORKING TIME TO LOOK AFTER WELLBEING AND TO HELP AVOID BURNOUT

Encourage staff to take lunch breaks and move away from the screen on a regular basis. Set the expectation that communications are not sent out of hours (e.g. that there is no need to check emails out of hours, but that genuinely urgent matters might be communicated by phone).



# GREAT MINDS DON'T THINK ALIKE

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