

Temporary Remote Employee Considerations for Government Employers Checklist

PRACTICAL LAW GOVERNMENT PRACTICE

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A Checklist outlining measures government organizations should take when allowing or directing employees to work from home temporarily. This Checklist includes policy considerations for implementing remote employment due to unusual circumstances, such as pandemics, disaster recovery, weather conditions, and government facility closures. It assumes the organization does not have a teleworking policy in place or that its policy does not adequately address sudden or unanticipated events that disrupt normal operations.

CONSIDER WHETHER THE CIRCUMSTANCES WARRANT WORKING FROM HOME

Assess situations that may call for allowing or directing employees to work from home temporarily due to sudden or unexpected events, including:

- Weather-related hazards.
- Environmental disasters, such as wildfires.
- Shutdowns of public transportation or major traffic arteries.
- Temporary government facility closures due to unforeseen incidents, such as:
 - damage or destruction; or
 - utility disruption.
- Public health issues, such as:
 - pandemics, including 2019 novel coronavirus disease (COVID-19);
 - epidemics and other infectious outbreaks that are more local in nature; or

- sewer overflows or other health hazards affecting specific public facilities.
- Public safety issues, such as:
 - civil unrest; or
 - terrorism threats.

ASSESS THE ORGANIZATION'S ABILITIES AND READINESS TO FACILITATE REMOTE EMPLOYMENT

- If the organization has previously adopted work-from-home policies, determine:
 - whether the policies adequately address the situation; and
 - what adjustments the organization should make. For example, previously adopted policies may address teleworking arrangements to accommodate individual circumstances but not larger scale events that affect a significant portion of the workforce.
- If the organization has not previously adopted work-from-home policies:
 - determine what guidance the organization should issue to implement remote employment;
 - adopt an official policy, to the extent possible under the circumstances, even if the organization sends employees home before it can adopt a policy; and
 - consider incorporating the policy into the organization's personnel rules (see Reinforce Related Personnel Policies and Legal Requirements That Apply to Remote Employees).
- Distinguish between the functions and processes that employees:
 - can perform remotely; and
 - must perform onsite.
- Consult with information technology (IT) staff to determine whether the organization:
 - has or can quickly acquire the technology to allow employees to work remotely, including virtual private network (VPN) connections or similar features, access to cloud-based files, and laptops;

- needs or will allow remote employees to use personal electronic equipment; and
- can provide technical support to remote employees.
- Determine the additional steps the organization should take to:
 - protect confidential information that remote employees may be able to access;
 - authorize the use of software and systems remotely; and
 - address good cyber hygiene practices.
 (See Address Technology, Cybersecurity, and Confidentiality Issues.)

MAKE THE DECISION REGARDING WORKING FROM HOME

- Determine who has the responsibility to make the decision to allow or direct employees to work from home. Depending on the scope of the situation and its potential duration, the decision may be up to:
 - the chief executive of the entire organization or the chief executive's successor as shown on the continuity of operations plan (see Continuity of Operations Plan for Local Government Checklist ([W-024-4808](#)));
 - the head of an individual department or division; or
 - managers and supervisors.
- When the discretion is with upper-level officials, seek input from subordinate employees who will be carrying out the decision.
- Consider whether remote employment should be:
 - limited to directly affected employees, such as those exposed to a pandemic disease, or employees who work in certain locations; or
 - allowed or required for all or most employees.
- Determine which employees must continue to work onsite, if able, such as:
 - law enforcers;
 - firefighters and rescue personnel;
 - dispatchers;
 - medical personnel and other emergency responders;
 - IT staff who must maintain servers or other onsite equipment;
 - support positions that employees cannot perform remotely, including, if applicable, payroll and accounts payable;
 - utility operations workers;
 - public works and facilities maintenance employees who must work onsite to maintain essential services; and
 - others who provide or assist in providing essential services that employees cannot carry out remotely.
- Determine whether a decision to send some employees home and require others to work onsite would reflect any type of improper discrimination against protected classes (see Practice Note, Section 1983: Equal Protection Claims ([W-002-6708](#))).
- After deciding to allow or direct employees to work remotely:
 - make it clear whether working from home is discretionary, mandatory, or a combination of both, depending on job functions and locations;

- set out the specifics of how the organization will implement remote employment;
- if possible, communicate the decision first to department and division heads, managers, and supervisors; and
- anticipate questions that will arise and have answers ready.
- If the organization initially decides that the circumstances do not warrant teleworking, revisit the decision periodically as necessary and as circumstances evolve.

COMMUNICATE THE COMMENCEMENT OF WORKING FROM HOME TO AFFECTED AND ELIGIBLE EMPLOYEES

- Develop and follow a communications strategy for explaining the remote employment plans and policies to employees. To avoid the spread of inaccurate information, move as quickly as possible.
- If time permits:
 - provide specific guidance to directors, managers, and supervisors before the rollout of remote employment; and
 - involve the directors, managers, and supervisors in announcing and explaining to their subordinates how remote employment will work.
- Announce the decision to employees and clearly communicate the parameters of working remotely, including:
 - which employees must work remotely;
 - which employees may work remotely at their discretion or with supervisor approval;
 - when remote employment begins;
 - how long the remote employment period will last or is expected to last, if known; and
 - each remote employee's duty to comply with applicable policies and required practices (see Specify Responsibilities and Expectations).

COMMUNICATE TO THE PUBLIC

- If appropriate based on the circumstances, develop and follow an overall communications strategy to advise the public of:
 - the circumstances leading to the decision to send employees home;
 - the facilities where some or all employees will not be available; and
 - how to contact certain departments or offices by email or other means, if applicable.
- Issue ongoing announcements to let the public know:
 - if certain facilities will be partially or totally closed to the public or if alternatives to in-person visits are an option; and
 - which services are not available or available online or through other means.

SPECIFY RESPONSIBILITIES AND EXPECTATIONS

SET A SCHEDULE AND ACCESSIBILITY REQUIREMENTS

- Set the schedule for each employee who will work remotely, including:
 - the amount of time the employee is expected to work each week or each pay period;

- the specific hours the employee is expected to work, if applicable, including breaks;
 - the employee's responsibility for keeping and reporting time worked; and
 - prohibiting employees from working overtime unless authorized in advance.
- Confirm that the employee will be:
 - working remotely during prescribed hours in substantially the same manner that the employee would be at the regular workplace, that is, unless sick or on vacation;
 - accessible by email, cellphone, or other appropriate means during specified times; and
 - available to participate in electronic meetings during work hours.
 - Remind employees who are exempt from overtime payments not to:
 - communicate with non-exempt employees outside of scheduled hours; or
 - expect non-exempt employees to work outside of scheduled hours unless urgent.

SET OUT WORKSPACE PARAMETERS AND DETERMINE WHAT THE EMPLOYEE NEEDS TO WORK REMOTELY

- Clarify whether the employee may work remotely anywhere other than home, such as libraries or cafés.
- Determine the employee's needs for computer hardware, software, other IT equipment, and office supplies and establish:
 - what the employee will provide and what the employer will provide;
 - that misuse of employer-provided equipment and supplies is prohibited; and
 - that the employee must return all employer-provided equipment and supplies after the end of remote employment or as otherwise directed and will be responsible for damage or costs associated with negligence or misuse.

(See Address Technology, Cybersecurity, and Confidentiality Issues.)
- Have the employee sign an acknowledgment of the equipment and other property the organization provides for use at the employee's remote workspace.
- Unless otherwise agreed, set out the employee's responsibility to provide:
 - internet;
 - phone and phone service; and
 - desk or work surface, chair, and other office furnishings.
- Clarify the costs that:
 - are the employee's responsibility; and
 - the employee may request reimbursement for or charge to employer accounts or purchase cards.

REINFORCE RELATED PERSONNEL POLICIES AND LEGAL REQUIREMENTS THAT APPLY TO REMOTE EMPLOYEES

- Reiterate each remote employee's responsibility to comply with other policies, such as:

- anti-discrimination and anti-harassment policies;
 - ethics standards; and
 - other applicable policies.
- Provide that each remote employee must comply with applicable health and safety regulations and that:
 - the organization may request evidence of compliance;
 - the employee must report any work-related accidents or injuries; and
 - the organization is not liable for damages to employee property or injuries to family members, other residents, or visitors that occur at the employee's residence.
 - Provide that if an employee fails to comply with work-from-home policies, the organization may:
 - revoke the employee's work-from-home privileges; or
 - discipline, suspend, or terminate the employee.
 - Provide that work performed by the employee as a remote employee is employer property, even if the employee uses personal equipment.
 - Remind employees that documents or information created will be subject to public information laws, even when created outside their regular offices or on personal equipment.
 - Require employees who work remotely to sign a remote employee agreement or an acknowledgment that they have read and will comply with the organization's work-from-home policies.

ADDRESS TECHNOLOGY, CYBERSECURITY, AND CONFIDENTIALITY ISSUES

- Require each remote employee to maintain proper cybersecurity standards and to:
 - install virus protection and software updates as directed;
 - periodically change passwords the employee uses to log in and access networks and data;
 - refrain from sharing passwords with anyone other than the employer; and
 - use other verification and security measures as directed.
- Confirm compatibility and security criteria for any personal electronic equipment employees use to perform their work.
- Determine which files and databases each remote employee should be able to access. Do not provide access to files or databases that the employee does not need.
- Verify that the employee understands:
 - which records that the employee has access to are confidential by law; and
 - the requirement to prevent improper disclosure of confidential information, including disclosure to family or others who may be in the employee's workspace.
- Caution employees regarding the use of flash drives and other storage devices to prevent:
 - contamination of employer-provided equipment or systems; or
 - improper storage of confidential public records.
- Prohibit the use of employer-provided technology:

- for the employee’s personal purposes; or
 - by family members or other non-employees.
 - Prohibit making copies of software furnished by the employer or other actions that may result in copyright violations.
 - Remind employees:
 - to follow required procedures for retaining documents according to applicable public records laws;
 - to segregate work files from personal files to the extent possible if they are using their own equipment and devices;
 - they should have no expectation of privacy in the use of employer-provided technology; and
 - the organization may monitor their use of employer-provided technology.
- (See Practice Note, Searching Government Employee Cell Phones or Emails ([W-015-1689](#)).

For further guidance on cybersecurity matters, see Cybersecurity for Local Government Checklist ([W-023-3799](#)).

PROVIDE THE SUPPORT REMOTE EMPLOYEES NEED

- Counsel managers and supervisors about the differences in supervising teleworkers and provide appropriate training when possible.
- Before employees begin working remotely or as soon as possible after they begin, provide:
 - suggestions for best practices for teleworking;
 - training on new technology or procedures; and
 - assistance with setting up hardware and software.
- Ensure that remote employees:
 - have the necessary equipment and technology to work remotely (see Address Technology, Cybersecurity, and Confidentiality Issues); and
 - can access colleagues, managers, legal services, human resources, IT support, and other necessary contacts.
- Regularly check in with all remote employees to:
 - verify whether they can get their work done;
 - ask about difficulties they are having and how the organization can help; and
 - provide emotional support and reassurance.
- Provide regular opportunities for remote employees to connect with each other and with employees who are still in the workplace.
- For temporary work-from-home periods, acknowledge that the same rules that normally apply to remote employees may not always work and that:
 - employees may be handling childcare issues, changes in school schedules, or other family matters that affect their ability to be fully available during normal work hours;
 - employees may be dealing with stress and hardships resulting from the same events that led to their remote employment status; and

- it may take time for employees to get up to speed in their new work-from-home environment.
- Recognize that employees who normally work remotely may be affected by the same situations that resulted in additional employees working remotely.
- When conducting performance reviews, consider how the circumstances may have affected the employee.

BE FLEXIBLE AND READY TO ADAPT TO EVOLVING SITUATIONS

- Make necessary changes as the situation develops and communicate them to employees.
- Keep employees up to date about:
 - organizational developments and changes; and
 - when they should plan on returning to the workplace, if known.
- Re-evaluate the circumstances as needed and:
 - ask employees to return to the workplace, if appropriate, considering health and safety factors; or
 - determine whether the organization should allow or direct employees who have not been teleworking to begin working remotely due to the current situation.
- Be honest with employees and let them know:
 - if answers to some questions are not immediately available;
 - that the situation may change week by week or day by day; and
 - if there is a possibility the organization may have to furlough employees.
- Keep employees on the payroll as long as practicable.

DEBRIEF AND ADJUST POLICIES AS NEEDED FOR THE FUTURE

When normal operations resume or if the circumstances leading to remote employment continue for an extended period:

- Seek input from:
 - employees who worked or are still working remotely;
 - employees who continued to work onsite;
 - managers and supervisors; and
 - the public.
- Assess the successes and shortcomings of the teleworking arrangements.
- Determine what the organization should do differently in the future if other sudden or unexpected events result in the need to allow or direct employees to work remotely.
- Amend or adopt policies to ensure the organization will be ready if the need arises again.

For additional guidance on best practices for remote employment, see Practice Note, Remote Employees: Best Practices ([W-001-3935](#)) and Remote Employees: Best Practices Checklist ([W-001-8125](#)).

For other resources on government responses to emergencies, see:

- Continuity of Operations Plan for Local Government Checklist ([W-024-4808](#)).
- Standard Document, Local Government Emergency Order to Shelter in Place During COVID-19 Pandemic ([W-024-6870](#)).
- Sample State and Local Emergency Proclamations for COVID-19 ([W-024-3260](#)).
- Federal Agency Policy in Response to COVID-19 Chart ([W-024-5333](#)).
- Global Coronavirus Toolkit ([W-024-3138](#)).

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