

COVID-19: Member Advisory

Working from home: your rights and responsibilities

Working from home arrangements benefit both employers and employees. For employers, it offers the flexibility needed to retain and usefully engage valuable and productive employees in circumstances where they can work but are unable to attend the usual workplace. It also minimises cost and disruption through continuity of existing staff and, consequently, the continuity of services – i.e. the teaching and learning of students. For employees it also offers the flexibility to balance work obligations with family and lifestyle needs, or emergent circumstances.

Employers have the primary obligation under work health and safety legislation, as well as a 'duty of care' under 'common law' (case law), to provide their employees a safe working environment and safe systems of work.

Those duties and obligations continue to exist in a context where an employer agrees to allow an employee to undertake their work duties remotely, such as from their own home.

However, unlike the usual workplace (e.g. a school or college facilities) over which employers have control, and are more readily able to manage risks, employers are less able to control the risks in remote environments, like a person's home.

In addition, employers (together with their worker's compensation insurers) may be liable for injuries sustained whilst an employee is working from home where those injuries arise out of or in the course of the worker's employment, and the employment is a significant contributing factor to the injury.

In trying to find ways to balance those competing interests, WorkSafe Queensland, the State regulatory body which oversees health and safety matters in Queensland workplaces, has issued guidance material to help employers and employees understand their rights and responsibilities and work together to identify and manage work health and safety risks whilst working remotely.

What are my employer's obligations when I am working from home?

Your employer has the primary duty of care and must do what is reasonably practicable to ensure your health and safety, and this includes where they allow you to work from your home.

Can I be asked to sign an agreement to work-from-home?

Your employer can ask you to agree to/sign a formal written document, such as a work-from-home arrangement (also known as "telecommuting agreement") and/or policy.

A work-from-home arrangement can include details such as:

- where the worker will perform the work (home-based work location);
- what hours / days of the week the work will be performed at home;
- what equipment is required to perform the work safely and productively;
- communication methods;
- work performance and expectations.

My employer has given me a work from home checklist to complete. Do I have to do that?

Yes. Employers have certain obligations under work health and safety legislation as a person carrying out a business or undertaking (PCBU). In ensuring they meet these obligations and do what is reasonably practicable to ensure your health and safety whilst working from home, they will need to gather documentary evidence of the steps taken to evaluate the working environment in your home, and the systems used to undertake work from home.

WorkSafe Queensland recommends that employers complete an extensive checklist document to evaluate and audit the employee's home working conditions and work with the employee to manage those (a copy of WorkSafe Queensland's checklist document can be found at this [link](#)).

Employers can either attend the home to complete the checklist themselves, or ask an employee to undertake a self-audit and document that by completing and returning a checklist.

If you are asked to complete a checklist, you should carefully read and complete the necessary paper work as best as you can.

Where an employee is completing a self-audit it may also be reasonable for the employer to request that the employee provide photos of the home-based work location(s) as part of the documentation.

When completing a checklist for a work from home arrangement, if you are asked to agree that you have/will put in place specific equipment, services or other requirements over and above what you can reasonably be expected to have in your home, but which are reasonably necessary to safely carry out your work duties, we recommend that your employer should bear the cost of putting those in place.

However, if you have queries or concerns about a document or a specific direction from your employer, you should contact your Union for advice and assistance before signing or agreeing to it.

Can my employer refuse to allow me to work from home if I do not complete my checklist or they are not satisfied with it?

No. Your employer should not just use these requirements to deny a work-from-home arrangement. Instead, these requirements should form the basis of a conversation between the employer and employee about steps that can reasonably be taken to manage any areas of concern. This should include the consideration of all reasonable alternatives that can readily be employed to minimise the impact of any health and safety risk.

Where a work from home arrangement is implemented to address an emergent situation, such as the COVID-19 pandemic, allowances should be made recognising that it just may not be possible to put in place the most optimal or preferable work environment or systems (particularly equipment and ergonomics). Employers and employees should discuss and agree on how they can both put in place practical and reasonable measures which aim to minimise foreseeable risks in the circumstances.

If your employer refuses to allow you to work from home, you should contact your Union for advice and assistance.

What are my responsibilities and obligations when working from home?

As an employee you also have an obligation to take reasonable steps to ensure your own health and safety and to follow the health and safety policies, procedures and instructions put in place by your employer.

This may include:

- following procedures about how the work is performed
- following instruction on how to use the equipment provided by the workplace (if any)
- maintaining a safe work environment (for example moving furniture to allow adequate workspace and providing adequate lighting, repairing broken steps)
- keeping your equipment safe, well maintained and in good order
- looking after your own in-home safety (for example maintaining electrical equipment and installing and maintaining smoke alarms and preparing a fire exit plan)
- reporting changes that may affect your health and safety when working from home.

If you have any questions about your rights and obligations when working from home, or are experiencing difficulties with establishing appropriate work from home arrangements with your employer, your Union's Industrial Services team are available to advise and assist you.