

# WORKING FROM HOME

## YOUR RISKS AND LIABILITIES

NINE LIVES CONSULTING   
Career Navigator



### **Are you clear about your responsibilities?**

Working from home (WFH) is becoming an established, albeit, currently poorly defined, aspect of employment, whether you are an employee or contractor or business owner.

Invariably there is a contract of employment/engagement which governs the relationship between the provider of service (employee/contractor) and the buyer of the service (employer/principal).

Given the sudden move to remote activity as a result of the pandemic, the content of many contracts or policies may not have evolved to address issues that arise from WFH arrangements.

While working conditions are essentially the responsibility of the employer, the remote configuration, especially when the employee is working from their place of residence, may be shifting responsibilities and liabilities to a shared approach between the employee and the employer.

## **The onus is on the employee to ensure they know their rights and responsibilities, to understand their employer's responsibilities and to confirm that their employer has policies and procedures to manage these issues.**

There are a number of new issues that may arise as a consequence of working from home, many will already be covered by one or more of the following:

- Workcover, (differs in each State).
- Employer; insurance cover or self-insurance.
- Employer's cyber insurance and security.
- Employer's policy on allowable P&L expenses.
- Current legislation (such as workers compensation) and where relevant industrial instruments such as modern awards and enterprise agreements.
- Employee's Business-related insurance
- Employee's Householder insurance policies.
- Employee's allowable income tax deduction claims.

But some issues may not fall cleanly into one of these categories and may need to be tested in court.

We suggest that it is important that the employee, as part of their responsibility to themselves and their families, understands their employer's attitudes and policies on the range of WFH related issues.

It is important that both parties have complete clarity about which party;

- is responsible for implementation of each policy and procedure.
- is responsible for maintenance of the feature.
- is responsible for actioning the policy and procedure.
- funds the implementation, maintenance and upgrades of each policy.
- bears the liability for each policy.

To avoid confusion and mistreatment in the event of a mishap, a competent employer will ensure that their employees' ergonomic, IT and security arrangements and any other employer requirements, are audited and approved in writing by the employer.

Some topics for consideration and clarification in employment contracts and policies could include:

- WORKING CONDITIONS
  - Role definition and performance measures: may require changes given a proportion of remote activity.
  - Definition of work hours; active and available.
  - Limits on after hours requirements (on-call requirements).
  - Managing/training/policy on email distribution.
  - Annual, parental, sick, compassionate and other leave arrangements and hand-over processes.
  - Suitable furniture and equipment; specification, purchase and maintenance.
  - Specification of coffee, lunch and private time (medical appointments) etc breaks.
  - Impact of isolation and relevant support and interaction to ensure currency of know-how and priorities.
  - Vaccination requirements, a currently evolving issue.
  - Mentoring and career development, professional development.
  - Performance management processes.
  - Attendance at office requirements based on relevance and effectiveness.
  - Staff interactions tailored to the needs of each employee to ensure engagement and minimise isolation.

- SECURITY
  - Residential security systems and monitoring; specification, purchase, maintenance.
  - IT systems security.
  - Personal security; locks, video door view etc.
  - Fire caused by an electronic device used for employment.
- IP LOSS and THEFT of Goods.
  - Break and enter (random).
  - IP theft via internet and telephone.
  - IP theft from targeted entry.
  - Confidential information inadvertently obtained or leaked by another member of household.
  - IP theft by visitor to household.
  - Employer owned vehicle, housing and protection.
- INJURY
  - Slip/trip fall during working hours
  - Slip /trip fall during non-working hours but while working.
  - Longer term ergonomic injury.
  - Accident while travelling to or from home on business activity. (Buying supplies or equipment, meeting client or supplier) in employee's vehicle.
  - Accident while operating employer owned vehicle.
  - Domestic Violence during working hours.
  - Domestic violence "after hours".
  - Bullying by colleagues, supervisors, clients or suppliers.
  - Stress related illness; time-off, medical costs, job security.
  - Sexual harassment by a supervisor, colleague, supplier or client, in the home or over the internet.
  - Sick leave due to Vaccination.
  - Wellbeing and staying connected and engaged.
- TRAVEL
  - Business related travel during working hours. (Delays, extra costs, loss of goods, injury)
  - Business related travel "after hours." (Delays, extra costs, loss of goods, injury).
- COSTS
  - Insurance costs.
  - Equipment costs and depreciation.
  - Security costs.
  - Repairs and maintenance for "work area".

TO ENSURE MAXIMUM PROTECTION, YOU NEED TO KNOW THAT YOU COMPLY WITH THE LEGISLATIVE AND EMPLOYER REQUIREMENTS, THAT YOU KNOW YOUR RIGHTS AND OBLIGATIONS.