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What are the legal implications of working from home

For many of us, working from home has become the new normal in 2020. Here are some legal implications to be aware of.



IN BRIEF

- Working from home raises legal implications that need to be addressed.
- Many companies have had to develop a work-from-home policy at short notice.
- As an employee, you have the right to request the necessary equipment to get your job done.

By **Nina Hendy**

Working from home suits many people to a tee, while others simply despise it. However you feel about it, there's no doubt it takes some adjusting to – from a mental, physical and legal standpoint.

With Melbourne and Auckland back in lockdown, it's important to be prepared for another wave of working from home. [Karen Gately](#), founder of Melbourne-based human performance consultancy Corporate Dojo, says we may not realise it, but working from home comes with legal implications that need to be addressed by both employers and employees.

“There are areas of grey right now, and both employers and employees need to approach working from home with a degree of fairness,” she says. “Having said that, employees also have the right to make a few reasonable demands.”

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– *Karen Gately, Corporate Dojo*

Here are the answers to some common questions.

Do I need a work-from-home policy?

Many companies have had to develop a work from home (WFH) policy at short notice due to the fast-moving nature of the pandemic.

If you don't have one in place, it's worth creating a basic policy document that outlines what's expected from employees when they're working remotely, advises Gately.

A lawyer can help with this. However, Bartlett Workplace principal Glen Bartlett cautions that it's important to ensure your workplace doesn't get bogged down in drawing up too many policies.

"Whether you need a policy on working from home will depend on the job being done by each individual within your business," he says. "A better approach may be to create a set of guidelines and checklists for managers to ensure they're checking performance standards. It will depend on your workplace."

Is my workspace safe?

Many companies have created a checklist that encourages employees to assess their own workspace to ensure it's safe. "Self-checking is the only practical way to do it these days," Gately says.

A checklist also demonstrates that employees have had training to conduct their work safely, which provides a level of protection for their employers.

Alternatively, a video call could enable employees to show what's missing in their workspace set-up. If it doesn't look safe, employers can suggest improvements or send out any equipment required, Gately says.

What if I don't have the right equipment?

As an employee, you have the right to request the necessary equipment to get your job done.

Gately has seen many examples of employers sending out office chairs to their staff. "Most employers will have no issue whatsoever with providing what you need, whether that's a new software license or a standing desk," she says.

Alternatively, you could establish a protocol that encourages employees to salary sacrifice and purchase what they need for their home workspace.

Should I use my own laptop?

Using your personal laptop is fraught with risks, particularly if you're dealing with sensitive customer information.

If you're working from home regularly, your employer should provide a laptop with built-in anti-virus software so the digital environment is secure.

What if I hurt myself while working at home?

Employers have a duty of care for ensuring a safe working environment, whether that work is carried out in the office or at home, Gately says.

"On the other hand, employees need to take reasonable precautions while doing their job," she adds.

Your employer will have workers' compensation insurance, which will cover you if you're injured at home in the course of doing your job.

What if I'm just not coping with working from home?

Many households are under immense strain. Job losses and financial pressure could be taking a toll on your mental wellbeing. Some workers are feeling isolated, or could feel bullied, Gately says.

"Employers need to ensure they check in on their staff regularly and ask pertinent questions about their wellbeing," she says.

If an employee admits they're experiencing mental health issues and this coincides with a redundancy announcement, it could be tricky, Gately says.

"You need to tread carefully about terminating employment if health issues have been raised. You may need some legal advice about this."

Am I still entitled to a free lunch?

If you were entitled to a free lunch at the office, or were able to claim lunch between meetings, that doesn't mean you can order Uber Eats and claim your meal now.

"Individuals need to play fair. The fact is that working from home means you're saving on the office commute. You can also cook your lunch in your kitchen during the working day. It's about not pushing the boundaries," Gately says.

What other support is there?

There are lots of resources online that can be shared with employees to help them navigate the shift to working from home, including [Fair Work fact sheets](#), information about mental health from [Beyond Blue](#), or checklists about hazards in the home workspace from [Safe Work Australia](#), Gately says.

"Extending this type of support can have a big impact on employees who haven't been able to come into the office for months," she says, adding, "The shift to working from home can at first appear fraught with legal implications, but it isn't as complex as it sounds."