



# Hybrid working

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# Agenda

- What is it?
- Legal and practical issues
- Expenses – tax issues

# Hybrid working – what is it?

- Not a legal term
- Sometimes referred to as agile working, remote working, split-working, or blended working
- Employee divides working time between employer's premises and another remote location (usually home)
- **Not** fully remote
- **Not** overseas
- **Not** individual request for flexible working

# Hybrid working – legal considerations

- ‘Place of Work’ clause in contracts of employment
  - Section 1 of the Employment Rights Act (**ERA**) – statement must say where the employee is required or permitted to work
  - Section 4 of ERA – written statement of changes must be given within 1 month of a change
- Flexibility/mobility clauses in contracts
- Contract to specify days/working pattern, or to refer to policy?

# Hybrid working – working arrangements

- Policy or contract should set out expectations:
  - Minimum expected attendance (e.g. 60% in the office)?
  - Ability to require employees to attend the workplace (e.g. for meetings, training, appraisals)?
  - Geographical remit from which employees can work remotely – e.g. requirement to ensure they are within commutable distance of the workplace?
  - Allowed or mandatory?

# Hybrid working – other considerations

- Confidentiality
- Data protection
- Monitoring
- Equipment
- Insurance
- Health and safety

# Hybrid working – making changes

- Right to revert?
  - Contractual right to require employees to return?
  - Consultation and reasonable notice
- Trial period?
- Potential claims
  - Discrimination
  - Unfair dismissal



## Hybrid Working – Changes to Employee benefits & expenses

Many organisations are review expenses for hybrid employees

In principle employees are subject to tax on:

- Benefits
- Reimbursed expenses
- Personal expenses (e.g. travel, accommodation, meals)

Unless – expense/benefit is exempt or deductible





# Travel expenses

But – ordinary commuting – travel between home and a **permanent workplace is a taxable benefit**

- Remote/Hybrid workers – is the office a permanent workplace?
  - Yes– travel costs will be taxable benefit
  - No – exempt benefit

**Going to look at some common example scenarios**



## What is a permanent workplace?

- Can have more than one!
- Home could be workplace as well as ‘the office’
- A permanent workplace is one which an employee attends regularly. Regular means:
  - Frequent
  - Follows a pattern
  - For (almost) all the period for which they (likely) hold employment



## Scenario 1

- Alan is a hybrid worker
- Alan is required to attend the office once a week
- Undertakes range of tasks while in the office

Is paying for travel a taxable benefit?

- Office will still qualify as permanent workplace as attendance is regular, even though only once a week
- Travel is taxable benefit



## Scenario 2

- Karen has the option of working from the office or from home
- Usually chooses to work from home
- Attends the office occasionally (roughly once a month)

Is paying for travel a taxable benefit?

- Office will still qualify as permanent workplace as attendance is by choice
- Travel is taxable benefit



## Scenario 3

- Tim only visits the office once a week to attend the weekly SLT meeting
- Otherwise, he is required to work from home

Is paying for travel a taxable benefit?

- Office qualifies as a **temporary workplace**
- Travel expenses are NOT taxable



## What is a temporary workplace?

- If workplace qualifies as temporary – travel expenses not taxable
- For permanent staff – most likely to apply if visit office only for temporary (self-contained) purposes

Common Examples	
Team meetings	Staff management and appraisals
Training	Events

- A workplace is either temporary or permanent – all travel to/from permanent workplace to home will be treated the same – even if could be for a temporary purpose on that day



## Scenario 4

- Claude visits the office two days a week
- Attends for team meetings, staff catch ups and delivering training

Is paying for travel a taxable benefit?

- Attendance is for a temporary purpose(s)
- But spend 40% or more of their time at the office – caught by special rule meaning that cannot qualify as temporary workplace
- Travel expenses are taxable



# Example summaries

Employee is home based and	Office is	Reasoning
Visit office once a week	Permanent	The visits are not for a limited duration, or for a temporary purpose
Can choose to work from home or office	Permanent	Employee choice
Visit office every week to attend all day team meeting	Temporary	Visits are regular but for temporary purpose.
Visit the office for 2 days a week to attend various meetings	Permanent	Visits are for temporary purpose. But as 40% of time is spent at office not possible to argue as temporary purpose.





## What do you need to do?

- Establish why remote staff need to attend office
- Assess each staff member against permanent/temporary workplace criteria
- Workplace is permanent – any travel to office is taxable benefit – even if that visit is only for temporary purpose
- Workplace is temporary – travel expenses not taxable

Set clear policy – ensure remote staff understand conditions so that don't have to continually reassess



# Homeworking expenses

Difference between employer reimbursed and allowance/deductions

Employer reimbursed	Employee claim deduction from earnings (via HMRC)
Must be homeworking arrangements in place	Strict – only if employee cannot use employer facilities, or nature of job requires living far away Usually – only if no office available
Can reimburse up to £6 p/w without evidence	Employee can claim deduction of up to £6 p/w – worth £1.20 p/w
Can reimburse more with suitable evidence	Can claim more with suitable evidence



## Other expenses/benefits

- For other expenses – important to check the guidance
- Many of the reliefs in place during Covid have now gone
- Check in advance – can be a difference between employer provided and reimbursed expenses e.g. equipment
  - Employer provided – exempt
  - Employee reimbursed – taxable
- Don't forget the trivial benefits exemption (up to £50)



## Accounting for taxable benefits

Three main options for employers:

1. Complete P11D form for each employee
2. Payroll benefits by adding benefit value to payroll calculations
  - PAYE and NI are calculated during the year
3. Obtain a PAYE settlement agreement



## Workers based overseas

OTS report – increasing demand from employees, but greater reluctance among (particular small) employers

When employing workers based overseas there are many potential issues that can arise:

- Are they subject to UK PAYE?
- NI and legal issues?
- Using a personal service company



## Summary – tax position

- Review the tax treatment of benefits / expenses
- Set clear expenses policy
- Decide how to account for taxable benefits and plan ahead
- Communicate with affected staff



Any questions?

