Wimblington & Stonea
Parish Council
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Policy Document: Home Working Policy

Adopted: [14/10/2025
Minute Number: [167/25a]
Review Date: [14/10/2027]

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Introduction

The Purpose of this document is to define and describe the Home Working Policy that has been adopted by Wimblington & Stonea Parish Council.

This policy document will be reviewed by members of Wimblington & Stonea Parish Council and updated or amended where necessary.

Overview

A large proportion of Parish Council clerks work from home.

This raises a number of points in terms of the employers (& employees) responsibilities.

Wimblington & Stonea Parish Council will comply with the requirement in law (Employment Rights Act 1996) that every employee should be given a written Statement of Particulars the terms and conditions of their employment within two months of taking up their post (a person working from home is in no different position).

The Inland Revenue regulations do not recognise Clerks to Council's being self-employed (All are Schedule E employees as Office Holders under the LGA 1972) and the Council will not place any reliance on the liability for insurance and other matters devolving on to the Clerk to the Council solely in their capacity as a homeowner/private citizen.

The fact that the Clerk to the Council does not occupy official premises likewise does not alter the legal obligations of the employer Council toward a home-based employee.

The Clerk shall not subsidise the work of the employer and proper remuneration by salary paid according to the agreed scale and reimbursement of all agreed expenses should be made in full

The National Agreement on pay and conditions of service of the National Joint Council ("the NJC") for Local Government Services (the Green Book) applies to the Clerk's employment as the National

Agreement on Salaries and Conditions of Service of Local Council Clerks in England and Wales.

Employment Conditions

Employees working from home benefit from the same rights as comparable workers based at an employer's premises.

In the circumstances of being a home-based worker, specific additional agreements are built into the contract of employment as supplementary clauses.

- Hours of work & the degree of flexibility i.e. Core time availability and other time
- Agreement on attendance at meetings and 'on-site' meetings & expenses
- Claims procedure for expenses
- Allowances payments - Amount and frequency of payment
- Allowances for business rates, heating, lighting, wear and tear
- Allowances for depreciation of own equipment used
- Health & Safety requirement on the employer to assess the home workplace (e.g. Electrical power supply, safety of equipment, ergonomic use of equipment)
- Health & Safety access
- Provision of equipment by the employer
- Provision of dedicated work telephone line (or see expenses)
- Equipment & data security procedures including remote storage
- Maintenance agreements
- Employers to be adequately cover for insurances purposes and employees to notify their own insurance companies of any work-related risks i.e. using home as an office, driving own car on council business etc. Reimbursement to be by the employer for any excess insurance premiums required to carry out their employment.

Data Protection

The Council will be registered under the Data Protection Act 1998.

The responsibility is for the processing and storage of data electronically or in written format.

The principles set out in the Act must be applied. i.e., that data is processed lawfully, is accurate, relevant, not excessive and is kept up to date

Data Access

Wimblington & Stonea Parish Council and the Clerk to the Council will ensure that other household members do not have access to personal data as defined in the Data Protection Act 1998.

Appropriate security measures must be considered and put in place to satisfy the requirements of the Act.
This extends to security of electronic files, disposal of confidential waste and the locking of the home/office computer.

Passwords should be known to the Clerk to the Council and the Chairman of Council only.

The Council should ensure that they provide the latest anti-virus software to protect information.

Privacy

Wimblington & Stonea Parish Council respects the privacy of the employee.

Employees working from home have a right to privacy out of agreed work hours and should be able to separate their working and private lives.
The Work Life Balance Standards apply equally to the office and home-based employee.

Times when the home-based employee can and cannot be contacted should be agreed and not breached unless in the case of a legitimate emergency.
A separate business line with a message recorder will help in this.

Home visits should be arranged at times acceptable to the employee.

Equipment

All questions concerning work equipment, liability and costs must be openly and transparently defined before the contract is agreed.

Wimblington & Stonea Parish Council will provide such equipment as is necessary to carry out the functions of the work and also the regular maintenance of such equipment.

If the Council makes use of the home-based workers own equipment, then a proper schedule of compensation to cover costs, wear and tear and depreciation must be agreed before the contract is signed.

The Council is responsible for supplying whatever technical support is necessary and for upgrading equipment in line with their requirements in the job function.

The home-based worker must undertake to take good care of the equipment and not to abuse its use in any way, particularly in respect of the collection or distribution of illegal material via the internet.

Health & Safety

Employers have general duties under the Health & Safety legislation for all their employees.
This applies whether the work is carried out in office premises or remotely.

The general duty is qualified by the principle of so far as is reasonably practicable.
Employees also have a responsibility to take reasonable care of their own health and safety and the health and safety of others who may be affected by what they do.
For the homebased worker this is likely to include visitors to the 'office' family, friends, etc.
It is the employees' responsibility to report all employment related hazards related to their own or others' health.

Employers are required to carry out a suitable and sufficient Risk Assessment of all work activity under the Management of Health and Safety at Work Regulations 1992.
This includes those that work from home.

It is also good practice for the home-based worker to carry out their own Risk Assessment using identical forms.

The Council has a written Health and Safety Policy.
In order to verify that the applicable health and safety provisions are correctly applied, the employer, workers representative or relevant authorities have access to the workplace within the limits of national legislation.
For a home-based worker such access is subject to prior notification and agreement.
The home-based worker is entitled to request inspection visits.

Employers have a duty to report and keep a record of certain accidents, injuries, diseases and dangerous occurrences.
There is also a duty under social security legislation to record accidents involving personal injury (the Statutory Accident Book requirement).

Health & Safety Information line: Tel: 08701 545500 www.hse.gov.uk
Guidance on Home Working INDG 226

Personal Security

The personal safety of the home-based worker is of particular relevance in the case of Clerks to Councils.

There is a requirement for access to the Proper Officer by any member of the Electorate.

Clearly the risk assessment must acknowledge that this is in the high category, particularly when no other person is likely to be present.
In general, any meeting to look at documents should be by appointment when someone else (Councilors) can be present, or the meeting should take place in a public building.

No meeting should take place out of the agreed hours of work.

A separate telephone line also offers privacy.

Organisation of Work

Home-based working taking place as it does in isolation from a workplace and immediate colleagues can impose particular stress on the individual.
The Council will seek to ensure that this aspect is fully discussed and understood at the selection stage of recruitment to the post.

As the workload and performance standards of the BPC Home Working Policy home-based worker are equivalent to those of comparable Clerks to Councils in office-based premises the arrangement should acknowledge the need of the home-based worker to be 'kept in the loop'.

A mechanism for the delivery of feedback on performance is a core responsibility of the employer. Regular visits should be scheduled with the Chairman to discuss work progress, issues, etc.

The Council will ensure measures are in place preventing the home-based Clerk to the Council from being isolated from the rest of his/her professional community and should ensure that the means are in place as part of the job description for such contact to take place i.e. Membership of the professional body the Society of Local Council Clerks; attendance at county meetings of Clerks to Councils', attendance at relevant training sessions provided by the Society or county association of NALC, attendance at the annual conference of the Society, etc.

Training

A home-based worker has the same rights to training as any other worker.

A newly appointed, home-based Clerk to the Council will not have the advantage of office-based colleagues of access to an immediate knowledge base.

The learning curve for the home working Clerk should therefore be anticipated to be longer than that of a comparable office-based colleague.
The Council will therefore ensure that the Clerk to the Council is given the opportunity to gain recognized competence in the job with the appropriate training course or courses.

Taxation

HM Revenue and Customs Ruling 2003: The Local Government Act 1972 Pt.7 s.112 (1) states that, 'a local authority shall appoint such officers as they think necessary for the proper discharge by the authority…' and section 112(2) states that 'An Officer appointed under subsection (1) shall hold office…' Under the Act of Parliament, the Council by making an appointment creates an 'Office Holder'. The holder of an Office is automatically chargeable to Schedule E under s.19 (1) 1 Income and Corporation Taxes Act 1988 and Class 1 National Insurance Contributions under s.2 (1) (a) and s.7 (1) (b) Social Security Contributions and benefits Act 1992. The emoluments received, whether described as an honorarium, a salary, a payment towards expenses (excepting true expenses being reimbursed), are therefore chargeable under ITEPA 2003 with liability for National Insurance contributions. Therefore:

a) The Clerk to the Council cannot be construed as self-employed;

b) The Clerk to the Council cannot be construed as self-employed just because he/she is already registered as self-employed by the Revenue;

c) If the Clerk to the Council is an employee elsewhere, they are still classed as an Office Holder for the work as Clerk to the Council.

The Council notes that a failure on the part of the employee or the Council to act properly in the matter of advising HMRC of their taking up the position of Clerk to the Council leaves a Liability on the Council for all unpaid Tax and National Insurance contributions, both Employers Contributions as well as those of the employee.
There is also the possibility of a fine being imposed by HMRC.

Home-based Clerks to Councils will incur certain expenditure in the performance of their duties at home, such as additional heating and electricity costs.
When an employer contributes to additional household costs incurred by the employee who works from home, the employee would normally be chargeable to income tax on the payment.
A new measure introduced in the 2003 Budget means that employers will be able to meet some or all of the incidental household costs incurred by employees who work from home without it giving rise to a tax liability.
Such payments can already be made without giving rise to National Insurance Contributions liability.

As introduced in April 2012 an employer can pay up to £18 per month (£216) a year without supporting evidence of the costs the employee has incurred.