



EMPLOYERS' GUIDE ON WORKING FROM HOME IN RESPONSE TO THE OUTBREAK OF COVID-19

How to use this guide

This guide has been developed by the Federation of Uganda Employers (FUE) in collaboration with the International Labour Organization Bureau for Employers' Activities (ILO-ACT/EMP) to provide practical guidance to member companies that have implemented "working from home" protocols for their staff in 2020 as an alternative temporary arrangement during the COVID-19 crisis.

Companies have implemented working from home protocols as preventive measures or in response to the order or directive of the Government restricting face-to-face contact. This guide provides recommendations for companies, including the duties and responsibilities of employers and workers, considerations and challenges, and how to address and manage those challenges. It also provides a sample template for companies to enable them to develop a bespoke working from home policy.

Acknowledgements

The International Labour Organisation has been very supportive during this challenging time. In particular, the ILO Employer Specialist Gary Rynhart provided technical assistance during the development of this guide. As part of the process, the Executive Director, Mr. Douglas Opio and the Head of Employment Relations and Legal, Ms. Grace Nabakooza worked closely with various experts to develop this guide for the benefit of employers.

Foreword by the Chairperson

In only a few months' time, the coronavirus (COVID-19) pandemic has had a devastating economic, social and health impact across the globe. Hundreds of thousands of lives have already been lost, and the end of this crisis is not yet in sight. From the outset Federation of Uganda Employers (FUE) has been working with our member companies across the country to assist them in managing the negative economic, social and health implications of the COVID-19 crisis.

FUE will continue to provide support throughout this crisis. Our priorities throughout the crisis are: first to provide strong leadership to ensure the health and sustainability of the workforce and our communities; second to represent the interests and needs of business in crisis to Government with innovative and quick action measures and solutions; and third to support business during this period with relevant information and services as well as opportunities for remote networking and engagement with peers as these alternative arrangements are becoming universal.

This guide is the latest example of our commitment to our member companies.

Employers have a complex and evolving landscape to navigate. In our daily discussions with government representatives, we are prioritizing measures to support business continuity. This is particularly critical for hospitality, retail and related sectors that have already suffered a very significant demand shock.

Difficult decisions are being made each day and people's safety must always come first. We urge our member companies to implement government measures as speedily as possible and to increase awareness and positive action wherever possible.

This guide has been designed to help our member companies respond to a "new normal" that is changing day by day. Many companies are relying on "working from home" arrangements for the first time. Some are thriving while others are struggling to adapt. I hope this guide can provide timely assistance.

Finally, I would like to thank the International Labour Organization for their assistance in developing this guide.

Yours sincerely,

Eng. Dr. Silver Mugisha
Chairperson

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Introduction

The coronavirus (COVID-19) pandemic continues to severely affect public health and cause unprecedented disruptions to economies and labour markets. In line with advice from the World Health Organization (WHO), many steps have been taken worldwide to contain the spread of the virus. Governments have implemented measures ranging from physical distancing, restrictions on the freedom of movement and the closure of non-essential companies and undertakings, to the lockdown of entire cities in different parts of the world. As the pandemic evolves, so have the measures governments have taken to address it.

The Government of Uganda has started taking precaution measures with screening of arriving passenger, travel restriction, closure of school and crowded places, suspension of public gathering etc. even before the first confirmed case of COVID-19 was reported on 21 March 2020. Subsequently, directives and regulations were issued including boarder closure, curfew and country-wide lockdown started 1 April 2020. The measures have impacted business operation. Even though the President has recently in early May announced the restricted opening up of economy activities with partial opening of some sectors, social distancing guidelines are still in place to minimise the spread of the virus.

Reducing face-to-face contact is an important action to mitigate the impact of COVID-19. According to the International Labour Organization (ILO), around 68 per cent of the world's total workforce, including 81 per cent of employers, are currently living in countries with recommended or required workplace closures.¹ In this new environment, employers have to be able to adapt and make contingency plans to respond to new measures as they arise. Many companies are exploring working from home (WFH) as a temporary or alternative working arrangement.

1. What is working from home?

WFH is a working arrangement in which a worker fulfils the essential responsibilities of his/her job while remaining at home, using information and communications technology (ICT). For the purpose of this guide and in the context of the COVID-19 pandemic, the term "working from home" is used to refer uniquely to home-based teleworking as a temporary, alternative working arrangement. It requires a shared responsibility and commitment by both employers and workers to ensure business continuity and employment.

2. How is working from home different from teleworking, telecommuting, or remote working?

Progress in ICT has enabled and facilitated alternative working arrangements, including WFH, teleworking, telecommuting and remote working. These terms are often used interchangeably to refer to new and evolving models of working outside the employers' premises or workplace. There may be slight differences among these terminologies. For example, some may imply a temporary arrangement while others may imply a long-term

¹ILO (International Labour Organization), "ILO Monitor: COVID-19 and the world of work. Third edition – Updated estimates and analysis", 29 April 2020.

arrangement. WFH is considered to be home-based telework,² the difference being that teleworking may include various locations away from the primary worksite or the employer's premises (such as mobile working).³ Telecommuting refers to substituting telecommunications for commuter travel. There are some differences between the terms "teleworking" and "telecommuting", mainly because telework is broader and may not always be a substitute for commuting, but they are relatively minor. For the purposes of this guide, the terms "teleworking" and "telecommuting" are used interchangeably.

3. Are all jobs suitable for working from home arrangements?

When worksites and premises are closed across the entire company as a precautionary measure or as a result of a government directive, companies may be able to implement WFH arrangements to achieve continuity of service, maintain productivity, and preserve jobs while safeguarding the safety and health of workers. The ILO estimates that close to 18 per cent of workers have occupations that are suitable for WFH and live in countries with the infrastructure to enable WFH.⁴

The responsibility for WFH arrangements is shared, and it requires the commitment of both employers and workers to make it successful. Both employers and workers should be practical, flexible and sensible to each other's situation when implementing WFH arrangements.

Before rolling out WFH arrangements, employers should first assess if it is possible and practical for the job functions and the jobholder, as follows:

- Identify the job functions and tasks that can be done off-site. This may involve innovation and creativity to do things differently from the norm.
- Assess mechanisms for connectivity such as regular videoconferencing calls and other means.
- Assess the infrastructure, facilities and tools available for WFH, such as laptops, Internet connectivity and the availability of reliable power supply.
- Assess the legal requirements, obligations and potential liability, taking into consideration the worker's situation and the job functions, equipment and tools needed.
- Assess the worker's situation in terms of safety and health in his/her domestic environment and actual ability to carry out the tasks required at home.
- Consider the potential impact of the worker's living arrangements. For example, workers may have child or dependent care responsibilities, long-term health conditions or disabilities.
- Assess any mental health concerns or possible future concerns that could arise through a work from home arrangement.

It is important to note that while advances in ICT have enabled WFH, not all job functions and tasks can be done outside the employers' premises or the specified workplace. There are companies, occupations and tasks where WFH is not practical or feasible, or it cannot be

²Eurofound (European Foundation for the Improvement of Living and Working Conditions) and ILO, [Working anytime, anywhere: The effects on the world of work](#) (Luxembourg and Geneva, 2017).

³Jon C. Messenger (ed.), *Telework in the 21st Century, an Evolutionary Perspective*, ILO Future of Work series, (Edward Elgar and ILO, 2019).

⁴ILO, ["Working from Home: A potential measure for mitigating the COVID-19 pandemic"](#), Policy Brief, April 2020.

deployed in a short time frame.

Employers need to explore and implement an alternative plan for job functions and tasks that cannot be performed remotely, or for workers who have limitations at home or health and safety issues that prevent WFH.

The Minister of Gender, Labour and Social Development Hon. Frank K. Tumwebaze, during his statement delivered on 28 April 2020 on effects of corona pandemic on the social and labour sector, referred to the measures and guidance agreed by the tripartite partners: Government, Employers (Federation of Uganda Employers FUE) and Unions (the National Organisation of Trade Unions-NOTU and the Central Organisation of Free Trade Unions-COFTU) that:

- Where possible, employees should be encouraged to work from home, not only as a means of reducing over-crowding at the workplace and thereby increasing the risks of infection with COVID-19 but as a measure of cutting on overhead costs at the workplace;
- Employees should be encouraged to take pending annual leave as one of the cost-cutting measures as well as decongesting work-places.
- Unpaid leave can be provided to employees and temporary lay-off respectively.
- Termination of employment should be the last resort explored by the employers and hence executed within the confines of the Employment Act, 2006 and applicable regulations.

Employers are encouraged to discuss with workers, or labour unions if applicable on the alternative plan. Employers may consider advising the workers to take the accrued paid annual leave, unpaid leave, or any other applicable leave. The Employment Act, 2006 provides procedures for annual leave but not unpaid leave. However, Company employment contracts and policies may have provisions for unpaid leave and other leave entitlements which could be utilised in the situation. The respective employment contracts could be amended through addendum to address the changes to be implemented e.g. unpaid leave or temporary lay-off.

4. How are companies adapting to implementing WFH arrangements?

Some companies may have previous experience in implementing WFH arrangements or they may already have emergency WFH plans in place. However, many companies are likely to be implementing WFH arrangements for the first time, and they need to quickly and urgently adopt WFH arrangement across the entire company. For example, a survey conducted in March 2020 of 250 large firms in Argentina found that 93 per cent had adopted teleworking as a policy in response to the COVID-19 pandemic. Similarly, the Indian business process outsourcing giant, Tata Consultancy Services, reported that around 85 per cent of its 400,000 employees in India and elsewhere in the world were working from home as a result of lockdowns.⁶

⁵Newvision. "Effects of Covid-19 on the labour and social sector", 30 April 2020

⁶ILO, "Working from Home".

Although many companies recognize the benefits of teleworking, some have had difficulty making the transition. In Japan, a survey conducted prior to the 7 April announcement of a state of emergency, found that while 96 per cent of respondents agreed with the importance of WFH or remotely, 31 per cent of companies were unable to adopt this form of working because paperwork was not yet digitized and the required internal rules and procedures for teleworking were not ready. Concerns over confidentiality of information or possible security breaches can also limit the use of WFH. Many small and medium-sized enterprises (SMEs) also struggle with telework. The Argentine SME Observatory found far lower use of telework by SMEs than by large companies, with only 55 per cent of SMEs in the service sector, 24 per cent of SMEs in industry and 23 per cent of SMEs in retail trade.⁷

According to Mercer's 2020 Global Talent Trends Study, only 22 per cent of companies were ready for mass remote working prior to the outbreak of COVID-19. The study also found that only 44 per cent of companies say they systematically assess jobs for their adaptability –such an assessment can help companies to design flexibility into a job, rather than allowing flexibility to be determined by the worker's circumstances.

In Uganda, working from home is a relatively new experience for many companies and increasingly becoming an acceptable new normal after the pandemic is since gone and dealt with. Through our one on one discussions with our member companies, we have found that many are adapting to these new realities and are seeing many advantages. However challenges remain for many and we are fully cognizant of those.

5. Are workers obliged to observe the company's directive to work from home?

Normally, WFH arrangements are implemented on a voluntary basis between employers and workers, often accompanied by a signed agreement setting out terms and conditions. In the current situation, however, WFH has been mandated in many parts of the world as a temporary public health measure.

In accordance to the Occupational Safety and Health Convention No. 155 (International Labour Standard) and its Recommendation No. 164, and *Uganda Occupational Safety and Health (OSH) Act 2006*, workers are legally obligated to co-operate with the employer for duty, work requirements or measure imposed⁸ to secure a safe and healthy working environment.⁹ This should include requirement to work remotely and safely from the workers' home. Workers are also responsible for taking care of their own health and safety and the safety of others¹⁰, use safety devices and protective equipment by complying with the policies set forth by the employer. In addition, in accordance with Paragraph 16 of the Occupational Safety and Health Recommendation, 1981 (No. 164) and Section 36(a) of the Uganda OSH Act 2006, they should report any hazards or issues as soon as possible following the

⁷ILO, "Working from Home".

⁸Section 13(1)(a) of the Occupational Safety and Health (OSH) Act 2006: It is the responsibility of an employer to take...all measures for the protection of his/her workers...

⁹Art 19(a) of Occupational Safety and Health Convention 1981, No.155, and Section 35(1)(b) of the OSH Act 2006.

¹⁰Para. 16 of the Occupational Safety and Health (OSH) Recommendation, 1981 (No. 164) and Section 35(1)(a) of the OSH Act 2006.

employer's reporting procedures.¹¹ It is important to be clear that the workers' obligations and responsibilities apply even in the informal surroundings of WFH arrangements.

Therefore, when WFH is required to minimize the spread of a pandemic, workers must cooperate and comply fully with preventive measures or directives, take reasonable care of their own safety and the safety of others and observe the policies of the company.¹²

6. What are employers' responsibilities when implementing working from home arrangements in response to COVID-19?

It is important to note that temporary WFH arrangements do not require any permanent adjustment to the terms and conditions of employment. The arrangements can change in response to updated directives and the evolving needs of the company. Employers should consider modifying or developing a company policy or guidelines to provide clear guidance on implementing WFH arrangements (see annex for a template). They should communicate the policy effectively to all workers, and any changes to the policy should be communicated as early as possible.

A few countries around the world have begun legislating aspects of WFH/remote working arrangements, working conditions, the rights and responsibilities of employers and workers. For example, in the Netherlands, the Working Conditions Decree concerns paid work performed in the worker's living quarters or another place chosen by the worker outside of the employer's premises. It includes the employer's duty of care to check on the worker and ensure legal obligations under the Decree are met. In Poland, the provision of the Labour Code that addresses "telework" emphasises that the location of work is away from the premises of the employer and is based on services rendered by electronic means, while in Austria, "telework" is regulated through working-time legislation, rather than as a separate issue.¹³ In March 2020, Chile enacted a law regulating teleworking, granting legal certainties to both employers and workers in teleworking arrangements and specifying their rights and responsibilities. For example, employers' obligation includes bearing the costs of operation, functioning, maintenance and repair of equipment.¹⁴

Operationally, managing workers from home is a new experience. In such a situation, it is critical that communication occurs daily and for communication to be targeted and personal. Managers should be prepared to listen to workers to flush out any customer concerns so workers can respond correctly. Face-to-face conferencing and virtual team meetings should occur frequently. Setting up a routine for departments and employees will provide clear expectations and collaboration. Plan a weekly agenda and distribute it to team members to allow for input before the meetings.

¹¹Para. 16 of the OSH Recommendation No. 164 and Section 36(a) of the OSH Act 2006.

¹²In Singapore, a new COVID-19 (Temporary Measures) (Control Order) Regulations 2020 was passed on 7 April requiring companies to implement WFH, when possible, and making it an offence if a company does not implement remote working measures if the job scope allows it.

¹³Examples from the Netherlands, Poland and Austria were drawn from: ILO, *Ensuring decent working time for the future*, General Survey concerning working-time instruments, Report III (Part B), Committee of Experts on the Application of Convention and Recommendations, International Labour Conference, 107th Session, (Geneva, 2018) p. 744.

¹⁴Dentons, "[Chile Telework law](#)", April 2020.

Although there is no specific legislation on WFH in Uganda, employers are advised that the provisions in the existing laws and regulations such as the Employment Act 2006, Occupational Safety and Health 2006, Workers Compensation Act 2000 and applicable best human resource practices including the relevant directives and guidelines issued by the Government may be applicable.

Relevant provisions in the Occupational Safety and Health Act 2006

Employers have reasonable and practicable duty:

- to take all measures for the protection of his workers and the general public from the dangerous aspect of his/her undertaking, at his/her own cost. S13(1)(a)
- to ensure the working environment is kept free from hazards due to pollution by employing technical or organisational measures. S13(1)(b)
- the provision and maintenance of plant or systems of work that gives a safe working environment. S.13(2)(a)
- the provision of information, instructions, training and supervision necessary to ensure the safety and health of the employees, and the application and use of OSH measures, taking into account the functions and capabilities of the different categories of workers. S.13(2)(c)
- the provision and maintenance of a working environment that is safe and without risk to the health and which is adequate, regarding facilities and arrangements for the welfare of the workers at work. S.13(2)(e)
- the provision, where necessary, of adequate personal protective equipment to prevent the risk of accident or of adverse effects on health. S.13(2)(g)

(a) Safety and health of workers

Employers have a duty of care for all their workers and need to, so far as is reasonably practicable, provide a working environment that is safe and without risks to health. This includes controlling and mitigating risks in locations other than the normal workplace, such as the worker's home during WFH. Employers should remind workers of their duties and obligations under their contracts of employment and applicable policies, in particular, their obligations and duties in relation to health and safety, confidentiality, data protection and intellectual property.

Definition of "Workplace" and "Working Environment" in Section 2 of the Occupational Safety and Health Act 2006

"workplace" has the same meaning as "working environment".

"working environment" means all places of work and all sites and areas where work is carried out including not only the permanent, indoor, stationary places of work, ...

Therefore, the employers duty of care towards the employees' health and safety is not only confined to the employers' designated workplace but includes all such places where an employee performs his/ her duties including an employee's home where work is executed.

The employers' duties in relation to safety and health, in accordance to the *Workers Compensation Act, 2000*¹⁵, may extend to independent contractors engaged by an employer and any subcontractors hired by independent contractors.

Section 22 of the Workers Compensation Act 2000

'Where a person awards a contract or subcontract to an employer for the execution of any piece of work, that person shall be liable to pay to any worker employed in the execution of the contract or subcontract by the employer any compensation under the Act as if that worker had been directly employed by that person'.

Even though it may be difficult for employers to carry out traditional health and safety risk assessments at a worker's home in the current context, it remains the employers' responsibility to ensure that:

- workers can perform the required tasks at home safely, and changes are made, if needed, to make it safe for WFH;
- there is a conducive working environment¹⁶, including working desk, office chair, suitable lighting¹⁷etc
- workers have the right equipment and tools to work safely at home, including the required protective or safety equipment, where applicable;
- arrangements are made to ensure the company's equipment, if taken home to facilitate WFH, is accounted for and returned in the condition it was provided;
- workers have relevant information, instruction, supervision and training, including measures to deal with emergencies;
- reasonable accommodations are made for workers with disabilities;
- arrangements are made for workers' physical and mental welfare.

Employers can establish a system for reporting and investigating injuries, illness or other accidents that occur because of work activities.

Section 14 of the Occupational Safety and Health Act 2006

Employers with twenty or more workers at a workplace are required to prepare and revise as often as appropriate a written statement of policy on the safety and health of the workers as guided by the Acts, make arrangement for carrying out the policy and bring the policy and any revision to the notice of all workers.

Additionally, employers should be aware of any increased health and safety risk that may arise from WFH during the COVID-19 pandemic. This could include increased odds for an incident of domestic violence to occur due to economic hardship at the household level and forced confinement to the home. There are reports that due to the current social

¹⁵Section 22 of the Workers Compensation Act.

¹⁶Section 47 OSH Act 2006: Healthy and safe working environment

¹⁷Section 48 OSH Act 2006: Workplaces to have suitable lighting

environment of lockdown, cases of violence against women and children are increasing in the country. Within a period of less than one month, between March 30 and April 28, 2020, a total of 3,280 cases of gender-based violence (GBV) were reported to the Police¹⁸.

Employers should keep in regular contact with their workers and keep them apprised of any resources they may have. For example, many employers maintain employee assistance programmes that provide for confidential counselling and referral services.

(b) Tools, equipment, supplies, and technology

Employers should provide the specific tools, equipment, supplies, and technology for workers when implementing WFH arrangements unless the terms and conditions of employment, collective agreement, or company policy state otherwise.¹⁹ Employers should see to the repair of such tools and equipment if necessary. The type of equipment and set-up required depends on the business and work involved. This may include a laptop, computer monitors, software, phone, access to the Internet, headset, access to host applications, and other applicable equipment as deemed necessary. In other situations, it may include the delivery of equipment and the installation of technical devices required for the job.

Employers could consider setting up a separate help desk or support email address where workers can forward issues related to workplace tools, equipment and technology to seek help and support when needed. Employers should also make clear that the use of equipment and tools provided by the company for WFH is limited to the worker only and for purposes relating to company business only.

(c) Home working setup and related expenses

WFH expenses traditionally are not reimbursable under most national laws and practices. However, in the current pandemic situation, WFH is required and many workers have incurred related expenses. In the absence of legislative requirements or government directives requiring employers to reimburse workers for WFH expenses, employers should consider reimbursing workers for their reasonable and necessary home office expenses, which may include a portion of the expenses associated with:

- mobile phone or landline costs
- Internet costs
- personal computer or tablet
- teleconferencing software or hardware

However, employers may exclude home office expenses which are mainly for the convenience of the worker, which may include a faster Internet connection, additional computer monitors, ergonomic chairs, or printers.²⁰ Employers should ensure the company policy specifies which expenses it will cover for WFH situations. The policy could specify that workers must seek

¹⁸Newvision, "Effect of COVID-19 on the Labour and Social Sector".

¹⁹ILO, *Final report: Global Dialogue Forum on the Challenges and Opportunities of Teleworking for Workers and Employers in the ICTS and Financial Services Sectors*, GDFTWEFS/2016/9, p. 28. "Employers should unless there is an agreement to the contrary with the worker, shoulder the hardware and software costs."

²⁰Norton Rose Fulbright, "COVID-19: Working from home and employer reimbursement of remote-work expenses in California and beyond", March 2020.

the company's prior approval for the reimbursement for expenses incurred in WFH situations.

(d) Workers' Compensation

The Workers' Compensation Act, 2000 provides for compensation to workers for injuries suffered and scheduled diseases incurred in the course of their employment. Section 18 of the Act required employer to keep himself or herself insured in respect of any liability as a result of his workers suffering injury in the course of work. Generally, when WFH is implemented, any injury incurred during work hours and arising from or while performing work functions in the designated work area of the house should be covered by worker's compensation insurance.

Overall the number of workers' compensation claims could fall during the pandemic, as fewer people are working. But that effect is unlikely be felt uniformly across all industries, and the workers' claims may not be limited to COVID-19 exposures. Employers may face additional challenges in limiting work-related injuries during WFH due to a lack of oversight of work environments and the increased potential for improper use of equipment and in-home distractions. These challenges may be compounded by the current pandemic, which has contributed to rising anxiety and mental stress and forced many workers to share makeshift home workspaces with spouses, children, and pets.

The Workers Compensation Act, 2000.

An Act to provide for compensation to workers for injuries suffered and scheduled diseases incurred in the course of their employment.

Section 1(i) "Injury" includes an accident and a scheduled disease.

(e) Liability

The worker's home workspace may be considered an extension of the employer's workspace in a WFH arrangement. The employer may be liable for job-related accidents that occur in the worker's home workspace that are not covered by the workers' compensation insurance. In addition to the workers compensation insurance mandated by the Workers Compensation Act 2000, some companies are also insured by the employers' liability insurance and group life insurance (GPA) that protects employers from financial loss if their workers sustain job-related injury or illness and cover the employee 24/7 as long as he/ she is still employed by the same employer. Employers are advised to review its existing insurance policies to ensure it covers workers working from home.

The employer should ensure the company policy on WFH assumes no liability for injuries arising in the worker's home workspace outside the agreed work hours or any loss, destruction, or injury that may occur to the home of the worker. This includes family members, visitors, or others that may become injured within or around the worker's home.

7. What are workers' responsibilities when working from home?

Occupational Safety and Health Act 2006

Section 35: Duty of workers to take care

(1) It is the duty of every worker while at work:

(a) to take reasonable care for the health and safety of himself or herself and of any other person who may be affected by his or her acts or omissions at work; and

(b) as regards any duty or requirement imposed on an employer or any other person, by or under a statutory provision, to cooperate with the employer, as far as is necessary, to enable the duty or requirement to be performed or complied with.

(2) It is the duty of the representatives of the workers in an undertaking to cooperate with an employer in all measures to eliminate or minimise risks to health and safety at work provided in this Act and any other law.

Section 36: Duty to report dangerous situation to immediate supervisor

(i) It is the duty of a worker to report immediately to a supervisor any situation which the worker has reasonable grounds to believe presents an immediate or serious danger to his or her life or health or to the life or health of any other persons in the premises.

Workers have the duty to protect themselves and others and to cooperate with their employers in the implementation of preventive and control measures, in accordance with Article 19(a) of Convention No. 155 (International Labour Standards) and Section 35 of the OSH Act 2006. This includes following any information, instruction, or training provided by employers and adopting safe work behaviours, complying with instructions, ensuring good hygiene practices, and using safety devices and protective equipment.

Workers are obliged to notify the employer if they become aware that they are suffering from any disease or physical or mental impairment, and report any accident to management immediately. Workers should also keep in regular contact with their employer and inform of any health and safety risks at home or any need to change the home working arrangement.

In addition to safety and health, the general obligations and responsibilities of workers, including those stipulated in the Employment Act 2006, OSH Act 2006 and other applicable laws and regulations, terms and conditions of employment, or the collective bargaining agreement shall be applicable in a WFH arrangement. These responsibilities may include:

- complying with all the company policies or guidelines on WFH, if any;
- complying with all existing policies and regulations, including safety and health policy, ICT and data protection policy, intellectual property, use of company tools and equipment policy;
- taking care of one's own safety, physical and mental health and well-being;
- restricting working time to those agreed with the employer and in line with national working time legislation;

- fulfilling all normal duties or alternative duties assigned;
- practicing work-life balance, and staying active and connected;
- being available and accessible during work hours, and maintaining frequent and timely communication with managers;
- refraining from holding meeting with customers or other workers at home without the company's approval;
- making necessary child or dependent care arrangements;
- taking reasonable care of the company's tools and equipment, including technology, data protection, confidentiality and security.

8. How to measure workers' productivity when working from home

Companies with remote workers are generally concerned about productivity from two angles. Some employers wonder "are they working at all?" while others are more concerned with "are they working efficiently?" Yet measuring the productivity of a remote workforce should not be any more difficult or different than measuring a physically present workforce.

Well managed remote teams can be far more productive than physically managed workers as companies are required to measure productivity by objective metrics than the physical presence of "time in the building."

Before a company establishes how to track and measures a workers' performance, it should identify what needs to be measured. Choosing the most impactful and qualitative metrics is key.

Measuring productivity based on results requires quantifiable metrics, which can be challenging to define. Some sectors and jobs are easier to define than others. For example for a sales worker, it is very clear what can be measured and evaluated. In job functions like a call centre representative, a simple metric of calls per hour can be used. However, when you have workers with varying responsibilities, creating metrics for each person will be required, with some degree of frequent revision.

Additionally, meeting a measurement does not necessarily equate to productivity. If goals are set too low, a worker accomplishing the desired result may not be working at full capacity. Just because a worker is connected to the office by a virtual private network does not mean work is being performed.

Performance is best determined by outcomes, and whether a worker is meeting measurable benchmarks or goals. Like any goal, worker performance cannot be achieved if no one knows what it is. The key to working well with remote workers is to be very clear and specific with all expectations.

Consideration should be given to how long it will take to know if someone is productive or not. Measurable results make sense, but the more frequent the measurement, the more susceptible is the feeling of micromanagement. However, measuring too infrequently means that the employer may not be aware of problems that need to be resolved.

Importantly, there are privacy issues that employers need to be aware of regarding workers and workplace monitoring.²¹

Data Protection and Privacy Act, 2019 aims to protect the privacy of the individual and of personal data by regulating the collection, processing and use or disclosure of personal information. The law give effect to Article 27(2) of the Constitution of the Republic of Uganda, 1995 (as amended) which provides that no person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property.

Employers who have personal data of the workers (workers records) such as date of birth, address, wages, employment records or performance records in their possession, and have control over the data are obliged to put in place adequate measures to protect that information in their possession.

Five elements to consider in measuring remote workers' productivity include:

- Set and communicate clear goals and deadlines in the same way with workers in a physical workspace.
- Form plans to increase accountability.
- Analyse important tasks and track progress on a time bound basis.
- Evaluate quality and quantity instead of time worked – shift the metrics to “tasks accomplished and their quality” versus “hours spent”.
- Track achievements.

9. What are the main challenges in implementing working from home arrangements and what considerations should be made to address and manage them?

There are multiple benefits associated with WFH, including: the reduction in commuting times; greater autonomy and flexibility in the organization of work; a better work-life balance; increased motivation and reduced turnover; and enhanced productivity and efficiency.²²In addition, reduced travel associated with WFH leads to a reduction in carbon emissions.

However, in such an unexpected and urgent situation as the COVID-19 pandemic, both employers and workers may be unprepared physically or mentally to meet all the challenges. According to a recent survey conducted by the Society for Human Resource Management (SHRM), 71 per cent of employers are struggling to adjust to remote work; 65 per cent of employers say maintaining employee morale has been a challenge; and more than one third of employers are facing difficulties with company culture, employee productivity and leave regulation.²³

It is therefore highly recommended that employers develop a workplace policy to provide clear guidelines and address the challenges. Employers should regularly assess the effectiveness of the company policies and guidelines.

²¹In the European Union, the General Data Protection Regulation provides strong data protection and privacy for EU citizens and residents, and applies to every global organisation that may hold or process data on EU citizens.

²²Eurofound and ILO.

²³See www.shrm.org/resourcesandtools/pages/remote-work.aspx.

Through the FUE social media platforms, guidance has been provided to employers on how they can manage and effectively communicate with their employees who are working from home e.g. having a designated work space, setting goals to accomplish on a daily basis, use of online technology, having health breaks, schedule specific hours for work, keeping work discipline and focus in place among others.

(a) Communication

Advances in ICT have enabled and facilitated WFH arrangements, yet ICT cannot overcome every limitation amid the rapid changes in the current situation. While employers and workers are making effort to keep up with the latest developments, changes announced by the Government or policy changes by the company could cause confusion among workers, especially if the changes could impact business operations or the expectations on workers, such as new restrictions on the movements of people. There are a range of software tools that make communication, collaboration and transparency easier. Many are free or low cost.²⁴

Communicate regularly

Communication should be quicker and much more frequent when WFH arrangements are in place. This improves collaboration and builds the necessary trust to successfully roll out new ways of working. Employers should do the following:

- Designate communication channels to enable the business to communicate with staff during WFH as necessary and ensure consistency of messages.
- Keep an up-to-date registry of contact details of all workers (phone number or email address).
- Communicate with all workers regularly to keep them informed of updated developments related to COVID-19 and its impact on company operations, including any change in company policies.
- Encourage an exchange of views and ideas on business continuity strategies.
- Hold periodic virtual meetings to update workers on the situation, review work and agree on how to deliver the company's services. This will also help workers to feel less isolated during WFH.

(b) ICT equipment and workstation set-up

Staff may experience technical challenges, such as connectivity problems, as WFH arrangements were deployed quickly and possibly in an unorganized fashion. There was not enough time for optimum preparation for WFH arrangements that would have typically occurred. Issues may arise where companies, especially SMEs, may lack the required communication infrastructure or sufficient equipment for all staff to work from home at the same time.

²⁴Slack for team collaboration and instant messaging; Zoom for video conference calls with team members and customers; Google Suite for email, document collaboration, file storage, shared calendar; Mural for team brainstorming workflow collaboration; Trello for project planning etc.

Establish shared responsibilities, commitment, and mutual understanding

Employers should seek cooperation, ideas and commitment from workers as to how they can best address and overcome this challenge²⁵ while ensuring business continuity and preserving jobs. Workers may have limited resources for WFH, or their home may offer a less optimal working environment than the workplace would (for example, it may be situated near a noisy construction site or factory or workers may have multi-generational household or cramped living conditions that are not conducive to WFH). Therefore, employers need to understand and assess the limitations that staff encounter and adjust expectations, responsibilities and tasks accordingly.

(c) Data protection and security

While the use of technology has enabled and facilitated WFH, it also presents higher risks of cyber-attacks and confidentiality breaches. Safe WFH processes are essential, especially if workers are using their personal laptops or devices to perform official duties and connect to the company network. Some companies have an existing data protection, confidentiality and security policy for this purpose.

Protect cybersecurity and privacy

Employers need to ensure that:

- data security is maintained even during WFH;
- a robust information technology system is in place with the necessary safeguards, including the safe transmission of confidential data outside the workplace;
- computers used for work have proper software is installed, including anti-virus protection, secured virtual private networks or firewalls against cyber threats;
- workers are aware of the company data protection policy, if any;
- workers have the required skill to use the ICT in accordance with company policy. Reminders and online training can be used to refresh skills in this area.²⁶

Data Protection and Privacy Act, 2019 provides protection for individual privacy and personal data by regulating the collection and processing of personal data, as well as imposing obligations on data controllers and processors.

Computer Misuse Act, 2011 provides for the safety and security of electronic transactions and information systems; to prevent unlawful access, unauthorised disclosure of information, abuse or misuse of information systems including unauthorised obstruction of use of computers and its services, securing the conduct of electronic and for other related matters.

(d) Staff management and possible abuse of WFH arrangement

As more and more companies choose to (or are required to) offer WFH arrangements during the COVID-19 crisis, issues of trust often advance to the frontline of workplace discussions.

²⁵ IBEC (Irish Business and Employers Confederation), "[Remote Working during Covid19 outbreak – IBEC outline of key considerations](#)", 11 March.

²⁶ IBEC.

This is because WFH can impact the trust equation between workers and managers because the task of management is more challenging. In the absence of face-to-face contact, the traditional “command and control” style of management becomes less relevant and managers may struggle to find other ways to make sure that workers are getting their work done during WFH. If workers do not feel a sense of belonging during WFH, they may also distrust their managers and company leadership. This may lead to the manager’s loss of control, and certain workers may abuse the WFH arrangement. Hence, workers’ self-discipline and mutual trust and confidence between employers and workers are essential in this working arrangement. Furthermore, the effective management of WFH requires a results-based management approach. This involves identifying objectives, tasks and milestones, and then monitoring and discussing progress without overly burdensome reporting requirements.²⁷

Build mutual trust and shared responsibilities

The “glue” that holds WFH arrangements, together is trust. Managers, workers and their colleagues need to trust each other. WFH cannot be effective without it. Employers should build mutual trust and establish shared responsibilities with workers through open and transparent discussions about expectations and outputs, including:

- when workers will be available and be responsive;
- how they will keep in touch, such as online and telephone contact;
- how work-life balance will be managed, for instance through regular breaks and switching off from work at the end of the day;
- how performance and reporting will be managed, taking into consideration worker’s circumstances where necessary;
- who workers should contact if they have any work-related issue;
- who workers should contact if they have an emergency situation.

Employers must also recognize some workers may find it hard to motivate and organize themselves when working from home. If this happens, the manager and worker should talk about practical steps that overcome those obstacles.²⁸

Remote working requires trust as well as digital infrastructure – trust in people’s reliability, capability and motivation.

(e) Organization of working time

The organization of working time is essential but it could be challenging, especially for workers with specified work hours or hourly paid wages.

The ILO report, *Ensuring decent working time for the future*,²⁹ referred to the European Union Framework Agreement on Telework, which provides that the working time of teleworkers should be within the framework of the applicable national legislation, collective agreements and company rules. Teleworkers manage the organization of their working time

²⁷ ILO, “[Keys for effective teleworking during the COVID-19 pandemic](#)”, March 2020.

²⁸ ACAS (Advisory, Conciliation and Arbitration Service), “[Working from Home](#)”.

and workload, and can offer workers with flexibility to do their work at times that are most convenient for them, while remaining contactable during the normal business hours of the organization. Performance standards of the teleworker are equivalent to those of comparable workers at the employer's premises. The report also indicated that Singapore and Sweden regulate telework, including work hours and rest provisions, through collective bargaining or guidance issued by public authorities.

Section 53 of the Employment Act 2006

- The maximum working hours shall be forty-eight hours per week
- The employer and employee may agree that the normal working hours per week to be more than forty-eight hours.
- Hours of work, except shift workers, shall not exceed ten hours per day or fifty six hour per week.
- A 30 minutes break shall be granted for workers who work eight hours or more in a day.
- The workers shall be entitled to overtime pay if required to work overtime in excess of the agreed working hours.

Establish self-discipline and close monitoring

While some degree of flexibility should be deployed in a WFH arrangement, employers should:

- establish an expectation of the worker's self-discipline and compliance with the agreed work hours;
- ensure working hours and rest breaks/ days occur in line with the provisions in the Employment Act 2006, collective bargaining agreements, or the company's terms and conditions of employment;
- ensure that workers record the total hours worked for each day or week;
- consider deploying online attendance or using email to record work hours.³⁰

(f) Occupational safety and health

As indicated in section 6(a), employers generally are responsible for the safety and health of workers at the workplace and during work hours. However, during WFH supervisors are unable to ensure the health and safety of workers because they are not present at the employer's workspace. Participants in the Global Dialogue Forum on the Challenges and Opportunities of Teleworking for Workers and Employers in the ICTS and Financial Services Sectors, held in Geneva in October 2016, included this among their consensus points:

"Occupational safety and health conditions are more difficult to monitor and control in teleworking arrangements, especially where the home is also the workplace."³¹

²⁹ ILO, Ensuring decent working time for the future, p. 743.

³⁰ IBEC.

³¹ ILO, *Final report: Global Dialogue*, p. 28.

Promote awareness and ensure compliance

Employers should do the following:

- ensure that workers are aware of or provided with relevant information about their general obligations with regards to safety and health including taking care of their own health and safety and the safety of others;
- ensure that workers are aware of and comply with the company's safety and health policy, if any, including the procedures for reporting work-related accidents and ill health or any health and safety concern;
- review the company's safety and health policy, if any, and ensure it has provisions covering the worker's home when WFH arrangements are in place;
- consider developing a policy on remote working to cover workers' safety and health during WFH;
- ensure workers are aware of the company's liability under the applicable national laws and regulations and their liability insurance for injuries that occur in the worker's home during the WFH hours.

(g) Ergonomics, health and mental well-being

During the COVID-19 pandemic, many workers may be experiencing full-time WFH for the first time, while they are also isolated from co-workers, friends and sometimes even from family. Their daily living routines have been disrupted, which may cause added stress, tension, and physical and mental strain. The impact of these stressors is even stronger in the current economic situation. When companies are adversely affected there can be increased redundancy, lay-offs and terminations, causing workers to feel further anxiety, uncertainty and insecurity, which may result in feelings of depression. The situation is aggravated during mandatory and prolonged WFH when lockdowns prevent people from going out and social life is limited. Studies have indicated that being unable to interact with friends and isolation from colleagues are key disadvantages in teleworking.³² Company policies on WFH should incorporate measure that respond to those factors.

For a majority of individuals who are working from home for the first time, getting the correct home office set-up presents a challenging problem. Sometimes, space within the home is limited and office space may double as a dining space, kitchen counter or general use area. Other times, a desk and chair may be present but without the adjustability needed to provide a suitable long-term work environment. Ergonomic risks can be problematic as workers may not have access to the same ergonomically-friendly equipment inside the company's four walls. For both employers and workers, the use of proper ergonomics can be overlooked while implementing WFH arrangements during COVID-19, possibly increasing the risk of injury or health problems to workers.

³² Jon C. Messenger (ed.), *Telework in the 21st Century, an Evolutionary Perspective*, ILO Future of Work series (Edward Elgar and ILO, 2019) p. 303.

Promote health and well-being and be supportive and understanding

It is important to stress that physical distancing does not require social isolation. While it is important for workers to find new ways to work and interact, employers must recognize the impact of isolation and loneliness, hence they must be supportive and empathetic, and keep workers informed, connected and mentally healthy. Employers should also consider how they could mitigate the potential for injuries to address potential ergonomic concerns for workers. Employers may consider taking the following actions:³³

- regularly contacting workers to make sure they feel supported and are coping well;
- creating opportunities for team communications by using online tools or apps to establish team-wide chat groups, for example;
- being available, accessible and willing to listen when workers need support;
- providing workers with appropriate control and flexibility over how they do their work
- offering practical tools to support positive mental health, including access to the employee assistance programme;
- raising awareness of workers' responsibility to take care of their own physical and mental well-being during WFH, including encouraging workers to stay physically active, eat well and regularly go outside for fresh air;
- providing on-going evaluation of offsite workers' workstation and offer guidance and monitoring of ergonomic conditions (however, managers will need to respect workers' home privacy);
- offering ergonomics and safety training or resources to change work habits and improve the physical home-based work environment.

Companies may consider issuing policy guideline on WFH, addressing the physical and mental health and well-being of workers, or they may refer to available resources on health and well-being during WFH.³⁴

(h) Work-life balance and workers' privacy

WFH can help workers to achieve a better work-life balance as they avoid long and stressful commutes between home and the workplace, and they have more time for family. Other benefits of WFH include increased worker satisfaction, productivity and loyalty, and reduced staff turnover.³⁵ While WFH arrangements have a great deal of potential, the reality is often more complicated, especially when WFH arrangements are implemented to contain a pandemic and not necessarily because the workers chose it.

Often, WFH leads to a blurring of the boundaries between work and personal life, an increase in work hours and an intensification of work. Thus, WFH can interfere with private life and cause work-life conflicts that can be challenging for workers' well-being, and affect overall work performance. A survey of teleworkers in Japan shows that the issue of the ambiguity

³³ WorkSafe Victoria, "[Minimising the spread of coronavirus \(COVID-19\): Working from home](#)", 23 March 2020; ILO, "[Work from home: human factors/ergonomic considerations for teleworking](#)", 20 April 2020.

³⁴ See American Psychiatric Association Foundation, Center for Workplace Mental Health. "[Working Remotely During COVID-19: Your Mental Health and Well-being](#)".

³⁵ Eurofound and ILO.

of working time and time off was the highest-ranked disadvantage of remote working.³⁶

The worry and stress of “work without end” are being recognized and regulatory measures have been introduced in response to separate paid work and personal life.³⁷ For example, France introduced the “right to be disconnected” in the 2017 revision of its Labour Code. It is therefore crucial that the employer has clear guidelines on working time arrangements that are in line with national legislation.

Promote work-life balance and be supportive

While there may be some measures taken at the national level addressing work-life balance, employers should do the following:

- set clear expectations of work hours and encourage and empower workers to set boundaries on his or her work schedule;
- promote a healthy lifestyle and work-life balance, including regular breaks and rest, exercise and fresh air;
- provide mental well-being support to workers who experience work-life conflict;
- for guidance, refer to the applicable laws and regulations or the relevant guidelines promoting healthy work-life balance, such as those issued by the occupational safety and health or mental health department.

(i) Performance and productivity

Benefits of WFH for workers typically include less time spent commuting, fewer interruptions, and greater flexibility. Thus, WFH could lead to better performance and increased productivity and engagement, which could improve workers’ satisfaction and reduce turnover. However, WFH implemented in response to COVID-19 lockdown measures may be different in practice. Additional care responsibilities of working parents may dramatically increase due to school closures. Working parents may need to be involved in home-schooling, surveillance and care of children of school-age or there may be more than one family member sharing the same space for online schooling or teleworking. The worker’s family responsibilities or having to share working spaces may interfere with his or her job responsibilities, alter working schedules, and affect work performance and productivity.

Change productivity mindset and be flexible and reactive

Employers could consider providing expanded support to parents and caregivers at this time. Employers may be able to provide some flexibility, including changing the measures on productivity by focusing on outcomes delivered rather than on working time. Employers may also use collaborative online tools, such as shared calendars and public status to facilitate teamwork and boost productivity.³⁸ Workers must adapt to their new WFH arrangement and environment and ensure the essential job responsibilities are fulfilled. Any issue on performance should be openly discussed between managers and workers.

³⁶ Eurofound and ILO, p. 301.

³⁷ ILO, Ensuring decent working time for the future, p. 747.

³⁸ International Organization of Employers (IOE), “[IOE Guideline on Teleworking in the times of Covid-19](#)”, Apr. 2020.

(j) Caring for children and dependents

Working parents may have competing responsibilities between WFH, their employer and caring for children whose school or day care is closed. It is unlikely that workers would be able to adequately perform their jobs while simultaneously performing dependent care duties. Employers should make it clear that workers must make arrangements for child or dependent care to enable WFH. Employers should be sensitive to the worker's situation, especially when WFH is implemented on short notice and workers had little time to prepare or make the required child or dependent care arrangement.

Be responsible and adaptive

Workers must communicate with their supervisors about their situation and determine whether modifications to WFH arrangements are necessary to balance the responsibilities of work and family care.

It is important for employers and workers to address the situation and agree on a more flexible WFH arrangement. For example, work hours can be scheduled around the needs of the family, temporary changes can be made to the work terms for a reduced workday or work hours and reduced targets, or the employer can be flexible about deadlines where possible. Some governments are adopting legislation allowing workers to take special paid leave³⁹ or unpaid leave without risking their jobs if they have to care for children or if they are unable to work due to COVID-19.

(k) Skills, staff training and development

Staff training and development play an important role to ensure workers are equipped with the required knowledge and skills to keep up with the latest information and technologies. Workers may need to develop technical skills to use communications tools for WFH when it is implemented in response to COVID-19.

Promote a learning culture

Depending on the specific sector and context, different ICT skills will be required during WFH. Online training, remote coaching, peer-to-peer learning and ongoing support for software and other tools⁴⁰ may be required to ensure workers develop the necessary skills and abilities to perform effectively from home. Employers should make use of ICT and online training tools and apps for regular contact with workers, and provide necessary training, coaching, or mentoring and ensure workers are motivated, developed and recognized.

(l) Keep up with the Government's policy and directives

The COVID-19 pandemic has significantly impacted the operation of companies. Many are struggling to sustain themselves, leading to temporary shutdowns or closures. Companies may have to implement WFH as a preventive measure or in response to the Government's orders and directives. Governments should allow a certain degree of flexibility and provide an assistance scheme to facilitate the implementation of the WFH policy. For example, the government of Malta, provided financial support to employers to partially cover the costs

³⁹ Seychelles passed the Employment (Coronavirus special leave temporary measure) regulations 2020, introducing special leave for workers to care for the school-age children during the COVID-19 pandemic.

⁴⁰ IOE.

of technology and teleworking solutions incurred to implement telework during COVID-19. Employers are granted up to € 500 per teleworking agreement and € 4,000 per undertaking to cover 45 per cent of the eligible cost incurred between 15 February and 8 May 2020.⁴¹

Engage in policy discussion

Companies all over the world are at the front line of a new way of working. It is happening in real time and in a less than optimal fashion. The usual ways that workers and management would agree on WFH arrangements have been discarded. Companies had little time to respond to an enforced and necessary situation.

For some companies, WFH can be a boon for their bottom line. A company that can run its entire operation staffed by workers who (mostly) work from home will no longer need to lease large office spaces and long commutes will also be gone. Some companies will be able to hire a geographically diverse workforce without providing additional office space and incurring no expense to relocate them.

During this challenging time, it is crucial that companies play an active role in providing constructive inputs in policy recommendations. It is critical that company experiences with WFH are shared with FUE.

Companies across the country are adapting to the use of WFH arrangements, in some sectors of the economy this has undoubtedly been easier than others. But we are in a high-speed learning environment and FUE will consistently collect the experiences from member companies and relay to policymakers the concerns and needs of the business community.

10. Should working from home continue after COVID-19?

The response to the COVID-19 pandemic is, among other things, a massive experiment in WFH arrangements. While some jobs cannot be done at home, the outbreak is accelerating the trend toward teleworking, possibly for the long term. Employers and workers are likely to adapt to and become more comfortable with WFH, learn to use ICT for WFH, and understand the benefits of WFH. Employees may even be able to maintain the same or higher productivity during WFH. In mid-April, a survey was conducted in the United States of more than 1,200 full-time employees experiencing WFH during the pandemic. It found that nearly half of the respondents wanted to keep working remotely. More than 45 per cent said their employers are actively considering or are open to this strategy. Among respondents, 40 per cent had been teleworking regularly at least one day per week before the COVID-19 pandemic.⁴²

The WFH arrangements implemented by employers due to the COVID-19 response is temporary, and the decision whether to continue with such arrangements should be at the sole discretion of employers. Workers are obliged to resume normal working arrangements when the situation permits and as directed by employers. Employers however may want to assess the benefits and challenges of WFH during this pandemic and decide on a case-by-case basis and in consultation with workers or unions, if any, on the feasibility of implementing regular WFH arrangement, if workers request it.

⁴¹ Lexology, "[Telework-Legal framework and financial support in view of COVID-19](#)", 28 March 2020.

⁴² SHRM, "[Will Employees Continue Working from Home After COVID-19? One Company Says Yes](#)", 30 April 2020

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