

# Will law firms see an increase in Employee Liability claims due to the risks associated with working from home?

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## Introduction

March 2021 marks an important anniversary, as for many it signals the first anniversary of working from home. Government guidance suggests that working from home should continue until 21 June 2021 and the guidance remains unchanged for now.

Home working has been a different experience depending on your individual circumstances and this article explores some of the risks and benefits of working from home experienced over the last 12 months. Specifically, we look at the concerns about a possible increase in claims for psychological illness and musculo-skeletal injuries as result of inadequate provision for home working.

## Working from home 'The New Normal'

The easing and tightening of working restrictions over the past 12 months has resulted in many businesses operating a blended structure, with some employees returning to the office, adhering to social distancing rules, and others choosing to continue working remotely.

It will be interesting to see how workers will react post 21 June 2021, once the UK Government is hopefully in a position to be able to fully lift restrictions. Will people choose to return to work in the office full time or remain working from home, or opt for a blended working routine?

Employers have the same health and safety responsibilities for those members of staff working from home as they do for those working in their place of business. At the beginning of the pandemic businesses had to make a number of quick adjustments, which included assessing their remote working practices and ensuring staff members had everything they needed to be able to work from home quickly and safely. This needs to continue as we enter the various phases of easing the restrictions.

## Benefits of working from home

For many, working from home has had a positive impact on both their work and lifestyle and mental wellbeing. Workers are suggesting home working offers them more flexibility to their working day and consequently a much better work/life balance. By working flexibly, some people feel that they are more productive and proactive. Another benefit is not having to do the daily commute to the office which reduces stress and anxiety and there is, of course, the positive impact on the environment to consider.

## Risks of working from home

There are always pros and cons to every situation and working from home is no different. There are some disadvantages to remote working, such as:

- Lack of face to face interaction with colleagues
- Over reliance on technology
- Differentiating between working and home life

People can face many distractions working from home ranging from family members needing attention to home schooling. This can prove difficult when employees' need to concentrate and focus on their work and meet deadlines, causing additional stress and anxiety and a potential lack of motivation.

We must not forget the psychological impact of living and working through the pandemic, which can take its toll on people's mental and physical health, especially if they or family members have suffered from the virus or sadly, have lost loved ones.

Regularly keeping in touch with employees while working from home is crucial, as for most businesses they remain their most valuable asset. By maintaining regular contact with staff members, firms will ensure their teams are kept updated, informed and involved as to the businesses' plans and priorities. But also, just checking in with employees to see how they are feeling will help reduce any mental health risks that may arise from remote working such as feeling disconnected, isolated or even abandoned.

Many people have been working remotely for the duration of the pandemic and conducting workstation risk assessments may have been overlooked as a result of working from home. It is recommended that businesses revisit the risk assessments for staff using display screen equipment at home, to ensure that it is still fit for purpose and meets their needs, and whether additional equipment or assistance is needed. This will help minimise the risk of exposure to any claims for repetitive strain injury and other muscular-skeletal disorders as a result of people not having adequate workstations at home.

The Health and Safety Executive offers simple guidance<sup>1</sup> on how members of staff can complete a basic workplace assessment at home to minimise the risk from display screen fatigue, repetitive strain injuries and poor postures. It has published a workstation checklist to help with this task<sup>2</sup>, which recommends taking regular breaks, getting up and moving about or doing some stretching exercises, and to sit ergonomically as possible.



## Preparing for the easing of restrictions

Whilst employers have obligations to ensure their staff are safe and well, employees also have a personal responsibility for their own mental health, wellbeing and resilience. This can be achieved by:-

- Establishing a routine
- Planning and prioritising your daily tasks
- Staying in touch with colleagues
- Taking regular exercise
- Remembering to take some time out for yourself

The Mental Health Foundation has issued some guidance<sup>3</sup> setting out helpful tips on how to look after your mental health as the country prepares to ease restrictions which includes:-

- Controlling what can be controlled
- Pacing yourself
- Building up tolerance
- Varying routines
- Talking to colleagues and line managers

It may seem that these steps are not necessary as we gradually start to prepare for the easing of the lockdown restrictions. However, it took us time to adapt to and cope with the restrictions, and the thought of lockdown coming to an end may be as hard for us to manage as the start was. It is not unreasonable to expect that it will take time to adjust and to reconnect with our old way of life. There are still a few months to go so it is worth taking this time to reflect and gradually prepare for the easing of lockdown, going at your own pace and doing so without judgement.

## Summary

Working from home has been a very individual experience based on personal circumstances. Whilst there will be continuing uncertainty in the coming months, there is merit in businesses taking stock and assessing the risks of where they are, and how their staff are, to ascertain if any additional measures are needed to minimise any potential risks arising from a return to traditional working. Employees should feel physically and mentally healthy to cope with resuming normality.

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