

STAC Response on Homeworking Queries

Background

After a consultation exercise on Homeworking, the 'Once for Scotland' Workforce Policies Programme Board requested that the Scottish Terms and Conditions Committee (STAC) negotiate and recommend changes to terms and conditions of service which may be necessary for staff who are required, or have requested, to work from home under the Flexible Work Location Policy.

The below table confirms the agreed STAC position as at 5 June 2023 on the 9 questions raised by the 'Once for Scotland' Workforce Policies Programme.

Query	Once for Scotland Question	STAC Response
1	STAC are asked to provide a position on whether an individual's contractual base of the home must be within a commutable distance of a designated workplace (for example, 30 mins for on-call). If so, this would rule out working from abroad.	Due the geography of the Scotland, the configuration of NHS Scotland services and our transport infrastructure it is not appropriate to set an overall rule for this position. Boards need to determine this locally based on their geographic position, service requirement, and the availability of staff. However appointed employees must be able to fulfil the full requirements of their role which may include unsocial hours and on call responsibilities. The only caveat is that all employees must be UK based
2	STAC are asked to provide a position on whether there should be a limit on how much an individual can claim for mileage if required to attend a designated base (e.g. for training or IT updates). For example, 50 miles. It is possible that an employee may move home during course of the agreement.	This would only apply to those who are required to be home based as no designated base is available, this needs to be agreed locally with the employee and employer as part of their contractual discussion and based on the requirements of the post.

3	<p>Is there an opportunity to equitably support those staff who may be unable to access this policy due to additional costs associated with</p> <ul style="list-style-type: none"> • Having or improving an internet connection • Heating • Lighting • Insurance 	<p>In the event a staff member requests Homeworking they will be responsible for any additional costs incurred.</p> <p>In the event the employer requires staff to work from home, affordability would be considered as part of the established Organisational Change process.</p>
4	<p>STAC are asked to offer a position on reimbursement for increased insurance costs for an employee being covered by the employer, where it is the employee request and where it is an employer request.</p>	<p>Claims of clinical negligence (i.e. those made against Boards in connection with the acts or omissions of employees) or non-clinical negligence (i.e. those that arise following loss / injury affecting third parties or employees) will continue to be covered by the existing Clinical Negligence and Other Risks Indemnity Scheme (CNORIS).</p> <p>In the event the employer requires staff to work from home, affordability would be considered as part of the established Organisational Change process.</p>
5	<p>STAC are asked to provide a position on the reimbursement of travel expenses for Agenda for Change staff and Medical and Dental where the home is the contractual base.</p>	<p>The determination of an individual's contractual work base is the main factor in establishing several terms of conditions that apply to an employee's entitlement to:</p> <ul style="list-style-type: none"> • travel expenses, • recompense for travel time and, • setting limits on commutable distance of a contractual work base. <p>The process of determining an employee's work base should be reached by mutual agreement, where no agreement can be reached the status quo will apply.</p>
6	<p>STAC are asked for clarification regarding travel time and whether there is a national position?</p>	
7	<p>Are STAC in position to take a view on determining contractual base for hybrid working arrangements e.g. where there is a 50/50 split between home and specified locations?</p>	

Employers will need to amend contracts of employment, where a 'new' work base is agreed.

Employee work base within NHS Scotland broadly fall into three categories, specifically these are:

1. Employees who undertake all their duties from a designated employer place (or places).

Due to the needs of the service in the provision of 24/7 direct patient care most staff will be required to work all their contracted hours from a designated place of work, this may also involve also traveling to other sites. These staff will be entitled to claim travel expenses and any excess travel time as per the provisions within their terms and conditions of service if they incur additional travel costs and travel time.

2. Employees who have a designated employer place of work and the employer has agreed that they will be able to work from home for some of their contracted hours. (Hybrid workers).

Hybrid workers are only be entitled to claim travel expenses from their designated employer place of work if they are required to undertake additional travel whilst working, on the same basis as described above in 1 above.

Hybrid workers cannot claim expenses or travel time if they are required to attend for work on what would have normally been a homeworking day, unless they have

been asked to attend for work at an alternate workplace which is NOT their normal designated employer place of work. In this circumstance they would be able to claim when working on a different site if their travel time and costs is in excess to that which they would have incurred if they travelled to their normal travel costs and travel time had they gone into the normal place of work.

For staff working from home as part of their contracted hours, employers must ensure that employees have everything they need to be able to work safely and effectively.

However in situations where the employer can only provide a part time designated employer place of work and asks the individual to work from home for the rest of their contracted hours, the employee would be entitled to claim travel expenses and travel time if they were required to come into work on days that they would normally work from home.

3. Employees who are required by their employer to be home based as no designated employer base is available.

For employees who are home based for all their contracted hours due to the needs of the service, their home will be their designated place of work. As such they are entitled to claim travel expenses and travel time from their home.

<p>8</p>	<p>Are employees able to claim tax relief for working from home?</p> <p>A number of consultation responses have asked for the employer to process Tax Relief. STAC are asked if they can share the circular already in use which can be referenced.</p>	<p>Employees cannot claim tax relief if they choose to work from home.</p> <p>The employee may be entitled to tax relief directly from Her Majesty's Revenue and Customs (HMRC) for some bills.</p> <p>For individuals - Claim tax relief for your job expenses: Working from home - GOV.UK (www.gov.uk)</p> <p>Tax, NI and Reporting obligations for Employers providing Homeworking Expenses - Expenses and benefits: homeworking: Overview - GOV.UK (www.gov.uk)</p>
<p>9</p>	<p>The current wording in the proposed updated Section 33 of the AfC Handbook states “any review dates if applicable”. STAC is asked for a view as to whether this review is the process to make any changes to a permanently agreed arrangement.</p>	<p>The majority of NHS Scotland’s workforce provides and delivers patient care and services 24/7 in both hospital and community settings, delivering safe and effective care. Most of the workforce will be required to be based on the employer’s premises, however there will be opportunities in some areas where staff maybe able to work from home for part or all their working time. In making decisions about home working the organisation will need to constantly review the composition of home working to ensure a fair and consistent application of opportunity where practical for staff.</p> <p>Accordingly, the following contractual arrangements will apply for employees who have applied and been approved for homeworking.</p> <p>1. For staff who apply to work from home on either a full time or part time basis and approval is given their contractual agreement will specify their contractual base</p>

		<p>and designated base. However, this agreement will be subject to review every two years to ensure that other employee requests for home working can be given similar considerations. This will enable home working to be more accessible to all. If the employees homeworking arrangements has to be changed or withdrawn, the employee will be given three months' notice of the change, unless mutually agreed otherwise</p> <p>2. For staff who are appointed on the basis that they are homeworkers due to the nature of their post either full or part time, then their contractual base arrangements will be deemed to be substantive i.e. not subject to the 2 year formal review.</p>
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