



# Bleadon Parish Council

## Home working Policy Policy

### 1. General

A large proportion of Clerks to Councils work from their own homes. This raises a number of points in terms of the employers (& employees) responsibilities. Bleadon 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.

### 2. Employment Conditions

Employees working from home benefit from the same rights as comparable workers based at an employers 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 ie. Core time availability (min three times a week)
- The availability of contact of Line Management (members of the personnel committee)
- Claims procedure for expenses
- Allowances payments - Amount and frequency of payment
- Health & Safety requirement on the employer to assess the home workplace (e.g. Electrical power supply safety of equipment)
- Provision of equipment by the employer
- Provision of mobile
- Equipment & data security procedures including remote storage
- Employers adequate cover for insurances purposes and employees notification to their own insurance company and reimbursement by the employer for any excess premium.

### 3. 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. ie. that data is processed lawfully is accurate relevant not excessive and is kept up to date.

### 4. Data Access

Bleadon 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, paper documents 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.

## **5. Privacy**

Bleadon 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 (mobile) with a message recorder will help in this. Home visits should be arranged at times acceptable to the employee.

## **6. Equipment**

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

## **7. Health & Safety**

Employers have general duties under the Health & Safety legislation for all their employees. The general duty is qualified by the principle of so far as is reasonable 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 home-based 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](http://www.hse.gov.uk)  
Guidance on Home Working INDG 226

## **8. 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. The present 'Drop In' allows the Clerk to meet Councillors and members of the public in a public / safe environment.

The Clerk may request a member of the personnel committee / other councillor to be present at any meeting with members of the public, other councillors or contractors.

## 9. 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 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.

A regular catchup should be scheduled with the Chairman of the personnel committee 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 ie.

Membership of the professional body the Society of Local Council Clerks, attendance at relevant training sessions provided by the Society or county association of NALC etc...

## 10. 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 recognised competence in the job by following the ILCA, FiLCA & CiLCA distance learning course supported by a **Qualified Clerk mentor**.

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## 11. Taxation

Inland Revenue 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 Schedule E 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 the Revenue 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 the Inland Revenue.

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.