



Home Working Policy

1. Statement of Policy

A large proportion of Clerks to Councils work from their own homes. This results in a number of points, which need to be addressed, in terms of the employers (& employees) responsibilities. Tidbury Green Parish Council will comply with the requirement in law (Employment Rights Act 1996) in that every employee (whether working at home or not) should be provided with written Statement of the terms and conditions of their employment, within two months of taking up their post.

The Inland Revenue regulations do not recognise Clerks to Council's being self-employed (All are Schedule E employees as Office Holders under the LGA 1972) and the Council will not place any reliance on the liability for insurance and other matters devolving on to the Clerk to the Council solely in their capacity as a homeowner/private citizen. The fact that the Clerk to the Council does not occupy official premises likewise does not alter the legal obligations of the employer Council toward a home-based employee.

The Clerk shall not subsidise the work of the employer and proper remuneration by salary paid according to the signed and agreed contract. Annual pay increases and reimbursement of all agreed expenses should be made in full, in line with the The National Agreement on pay and conditions of service of the National Joint Council ("the NJC") for Local Government Services (the Green Book) which applies to the Clerk's employment, as the National Agreement on pay.

2. Employment Conditions

Employees working from home benefit from the same rights as comparable workers based at an employer's premises. In the circumstances of being a home-based worker specific additional agreements are built into the contract of employment as supplementary clauses.

- Hours of work
- Agreement on attendance at meetings and 'on-site' meetings & expenses
- Details of Line Management
- Claims procedure for expenses
- Allowances payments - Amount and frequency of payment
- Allowances for business rates, heating, lighting, wear and tear
- Health & Safety requirement on the employer to assess the home workplace (e.g. electrical power supply, safety of equipment, ergonomic use of equipment)
- Health & Safety access
- Provision of equipment by the employer - The Council will provide a dedicated computer and mobile phone, and will pay for all necessary computer software or upgrades required to fulfil the duties required by the Council.
- Equipment & data security procedures including remote storage.
- The Council agrees to fully indemnify the Clerk to the Council for both Employers and Public Liability Insurance for working from their own premises or any additional premium required by the Clerk to the Council's own insurance.

3. Data Protection

The Council will be registered under the Data Protection Act 1998 and the General Data Protection Regulations (GDPR), which came into effect in 2018. The responsibility is for the processing and storage of data electronically or in written format. The principles set out in the Act and regulations must be applied. I.e. that data is processed lawfully, is accurate, relevant, not excessive and is kept up to date.

4. Data Access

The Clerk to the Parish 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 only and a copy of all key passwords should be contained in a sealed envelope, which will be held by the Chairman of Council, for opening in an emergency only. The list of passwords held by the Chairman will be reviewed and updated if appropriate by the Clerk on an annual basis. The Council should ensure that they provide the latest anti-virus software to protect information.

5. Privacy

Tidbury Green Parish Council respects the privacy of the employee. Employees working from home have a right to privacy 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. If a Councillor or somebody else needs to contact the Clerk, during a time that they are not working, they should email the Clerk requesting that they contacts them, when they read the message and are available to do so. 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. Tidbury Parish Council will provide such equipment as is necessary to carry out the functions of the work and also the regular maintenance of such equipment. If the Council makes use of the home-based workers own equipment then a proper schedule of compensation to cover costs, wear and tear and depreciation must be agreed before the contract is signed. The Council is responsible for supplying whatever technical support is necessary and for upgrading equipment in line with their requirements in the job function. The home-based worker must undertake to take good care of the equipment and not to abuse its use in any way, particularly in respect of the collection or distribution of illegal material via the internet.

7. Health & Safety

Employers have general duties under the Health & Safety legislation for all their employees. This applies whether the work is carried out in office premises or remotely. The general duty is qualified by the principle of so far as is 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 homebased worker this is likely to include visitors to the 'office' family, friends, etc. It is the employees' responsibility to report all employment related hazards related to their own or others' health.

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

The Parish Council's requires the clerk to undertake a risk questionnaire relating to the risks arising of the use of his / her home as an office not less than every two years. The result of the questionnaire should be reported to the parish council and any issues arising from this are to be reviewed and actioned. If deemed necessary an inspection will be undertaken by a councillor with prior notification and agreement with the clerk. The home-based worker is entitled to request inspection visits.

The Office Risk Assessment Questionnaire is based on the template downloaded from the Health and Safety Executive website and covers:

- Slips and Trips
- Manual Handling
- Health of workers in the office environment
- Computers, laptops and similar equipment (including Work Station Assessment)

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

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

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. Clearly the risk assessment must acknowledge that this is in the high category. In general any meeting to look at documents should be by appointment only and should be arranged for a time when someone else (Councillor) can be present, or the meeting should take place in a public building.

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. Regular meeting should take place with the Chairman to discuss work progress, issues, etc. The chair is also approachable by phone and email.

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

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 attending relevant training courses, having membership to SLCC and WALC. Within 12 months of being in post the Clerk should commence study of the CiLCA qualification.

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. The Council will pay an agreed sum to take into account the use of space, lighting, heating and electricity due to working from the private premises of the Clerk.

On an annual basis the amount to be paid will be reviewed and if appropriate increased to reflect any price / inflation increases.

Date of Policy: 22 January 2020

Date of Re-approval 17 February 2023

Date to be reviewed: February 2024

ChairmanParish Clerk.....