

Working from Home issues for Landcare

responsibilities of the employer to those working from home

Joanna Betteridge, Betteridge Legal Consulting (2013) provides the following advice for employers such as Landcare Groups on how to be proactive to work health and safety issues for staff working from home.

The Work Health and Safety Act 2012 states that a workplace is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.

This means that as an employer, there is a duty of care to **all** employees who work for you – regardless of **where** that work is undertaken.

Where an employee is authorised to work from home, their home will be a workplace for the purposes of the WHS Act. This includes areas of their home like the bathroom and the kitchen which provide amenities to a working area like a study. The walking spaces between these areas, for example, a stairway or hallway, will also arguably, be part of the workplace.

AUTHORISED VS UNAUTHORISED WORK FROM HOME

Where an employee simply chooses to do some extra work at home such as checking and responding to emails, or reading work related material during an evening or a weekend, the employer may be able to argue that the home is not a workplace in that it is not a sanctioned or authorised time or place of work by the employer.

Once working from home is an authorised activity, then WHS liability comes into play and risk management, so far as is reasonably practical, becomes crucial.

QUESTIONS FOR THE EMPLOYER:

- What class of accidents might occur in the home?
- What practicable steps can be taken to eliminate or minimise the possibility?
- Are the working from home facilities adequate?

At a minimum, what is **reasonably practicable** is that employers will develop a risk assessment checklist to those working from home (see p2).

OTHER ISSUES:

Documentation - if working from home is part of flexible working arrangements, what are the parameters around this arrangement? Is it well documented, i.e. an employment contract.

Confidentiality - how does the employer ensure that confidentiality is maintained in the employee's home? Do his or her other family members have access to the computer? Are hard copies of confidential material left lying around where they can be seen by family members or visitors? Could this mean the employer is in breach of the Privacy Act 1988?

Supervision issues – how does the employer adequately supervise the work of a person working from home?

IT issues – how much is reasonable for the employer to invest in setting up the IT of a person working from home and should the rest of that employee's family have the benefit of employer-provided equipment and software?



BREACHES OF THE LEGISLATION

A breach of the legislation does not occur when an accident happens. It occurs when a risk is allowed to exist and the organisation has not taken all reasonably practicable steps to ensure the health and safety of those who work for it. Under the WHS Act, employers can receive significant fines for offences.

TIPS FOR THE HOME OFFICE

Editor-in-Chief of *Employment Law Practical Handbook*, Charles Power suggests 11 key areas for a home office to comply with WHS requirements.

If any of your employees work from home on a regular basis, you have an obligation to make sure their home office environment is

safe. In other words, you will need to carry out a full health and safety check and risk assessment of any home office before you allow employees to work there.

A good first step to take in ensuring that a home office is a safe and free of risks to health is to require every employee who works from home to complete a Home Office WHS checklist below.

The checklist requires the employee to check off specific things to ensure that their home office complies with WHS requirements. For example:

1. Is there a working smoke detector?
2. Is there an ergonomic chair and adequately sized work surfaces?

3. Is a fire extinguisher readily available?
4. Is a basic first aid kit easily accessible? The minimum requirement is a basic (type C) first aid kit.
5. Are exits from the work area clear and unobstructed?
6. Are all electrical cords and appliances safely secured?
7. Are there any tripping hazards?
8. Are all floor coverings safe and non-slip?
9. Are there appropriate handrails on any stairs?
10. Is the lighting appropriate for the work being undertaken?
11. Is there proper ventilation and adequate heating/cooling?

Working from Home CHECKLIST

The following checklist provides guidance on completing an WHS risk assessment when working from home.

| PHYSICAL ACTIVITY | Y | N |
|--|---|---|
| Any lifting, pushing, or carrying type task is well within the physical capacity of the person. | | |
| Repetitive actions are not continued for long periods without appropriate breaks | | |
| Breaks involve stretching and changing of posture, and possibly alternating activity. | | |
| Trolleys or other mechanisms are used for moving heavy and awkward items. | | |
| THE WORK ENVIRONMENT | | |
| Level of illumination and location of lighting fixtures are suited to the activity. Natural and artificial light-sources should not create glare via reflection on the computer screen or working surface. | | |
| Worker enjoys sufficient ventilation and thermal comfort, regardless of the season. | | |
| Location, height and other physical characteristics of furniture and computer are suited to the task. | | |
| Walkways are clear of clutter and trip hazards such as trailing electrical cords. | | |
| Path to the exit is reasonably direct and free of trip hazards and obstructions to allow unimpeded passage. | | |
| Security is sufficient to prevent unauthorized entry by intruders. | | |

Working from Home CHECKLIST

| ELECTRICAL | Y | N |
|--|----------|----------|
| Power outlets are not overloaded with double adapters and power boards. | | |
| Earth leakage circuit protection is in place for work related equipment. | | |
| OTHER | | |
| Telephone or other suitable devices are readily available to allow communication in emergency situations. | | |
| First Aid supplies are available (Type C kit minimum requirement) | | |
| Smoke detectors are installed in the work area and properly maintained. | | |
| Emergency contact numbers and details are known. | | |
| A properly maintained dry-chemical or carbon dioxide fire extinguisher is on-hand. | | |
| Incidents are reported promptly to the Manager. | | |
| WORKSTATION CHECKLIST | | |
| Seat back is adjusted to support the lumbar curve of the low back. | | |
| Seat pan tilt is adjusted so hips and tops of thighs are at right angles or slightly greater. | | |
| Feet are flat on the floor or on a footrest, knees are bent at right angles and thighs are horizontal to floor. | | |
| Armrests are out of the way while typing, but may provide support during other activities. | | |
| Keyboard-to-user distance allows user to relax shoulders with elbows hanging close to body. | | |
| Seat height is adjusted so that arms and forearms are at right angles or slightly greater and forearms and hands form straight lines when resting on the keyboard. | | |
| Keyboard position is flat. | | |
| Mouse-to-user distance - mouse is directly next to the keyboard and on the same level. | | |
| Monitor height is adjusted so top of screen is at or slightly lower than eye level. | | |
| Viewing distance is approximately arm's distance away (350 - 750 mm). | | |
| Monitor and keyboard are placed directly and symmetrically in front of user and there is no glare. | | |
| WORK PRACTICES | | |
| Breaks are taken every 30 minutes of keyboarding and standing at least once per hour. | | |
| Keyboarding posture wrists are kept straight and not supported on any surface while typing | | |
| Sitting posture is upright or slightly reclined posture, maintaining slight hollow in lower back. | | |
| Hand is used to hold telephone receiver or headset is worn (no cradling). | | |

Further information: see the Worksafe Health and Safety Queensland publication *Guide to working safely in people's homes*, available in hardcopy or electronic version at:
www.worksafe.qld.gov.au/news/2011/employees-working-from-home

DISCLAIMER: The information contained in this publication is based on knowledge and understanding at the time of March 2016. However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of LASA or the user's independent advisor.