

## WORKING FROM HOME OR NOT – NAVIGATING THE WAY FORWARD



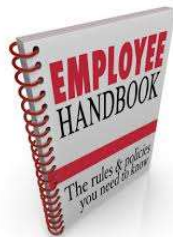
In the wake of sudden outbreak of crisis occurring across the globe, remote work is bringing a revolution on the way global workspace has been operating so far. A business organization should be prepared by implementing policies that will help in continuity of their business in a crisis or restrictive environment. The outbreak of Covid-19 has also given us some learning to manage the business effectively by keeping the safety of the employees' paramount. Considering such factors, we have analysed things a corporate should be aware of when its employees are working from a remote location.

### 1) What precautions should be taken while handling client sensitive information whilst employees are working from home?

Companies may consider taking an undertaking from employees regarding the protection of confidential and proprietary information and the office equipment/devices provided to them. They should limit the access to confidential information only to those employees who have a 'need to know' & install software/s in the office laptops that is able to monitor all data transfer. It is also advisable to check the existing agreements with employees for protection of confidential information. In case the companies are handling third-party client details, then it becomes essential to check the rights and obligations mentioned under its agreement with third-party clients. In some cases, client reserves the right over the data and any movement of data from server to devices requires specific approvals or can only be transferred if certain conditions are satisfied. The key for the companies would be to have the entire log of the data movement and the ability to control the same.



### 2) What measures and steps should be included in the draft policy for remote work?



A company should ensure that a draft policy for work from home is put in place so that business does not suffer and functions as it does in normal course of life. Such policies should be flexible and include rules relating to the work hours, log in time, do's and don'ts of remote work, confidentiality clause, provisions for leave and paid leave, time schedule for meetings, provisions for reduction in pay etc. Keeping in consideration the current scenario, companies may also consider establishing policies and practices for social distancing and preparedness and response plans. All such policies should be communicated to the employees.

### 3) What are good practices that companies can follow while working from home?

- Companies can provide regular updates about rules and regulations introduced by the Government and its implications;
- Companies should schedule learning and training sessions for the growth and development and should get an expert to join the video for better learning;
- They should hold team meetings on regular basis which will help in continuing the bond and will reduce communication gap; and
- They should also concentrate on research and development in respect of the lockdown and should create a database where all the information related to the same will be stored.

#### 4) What are good practices for companies in such situations from employee point of view?

- Companies should send regular updates, government policies in respect of the lockdown which will help them to remain updated even in crisis-situation.
- Management of the company should regularly schedule meetings with their employees and inform them about the decisions taken by the company. They may also discuss certain issues with their employees and take their advice on it as it will help in maintaining trust between the employee and the company. If required, companies should also take expert advices on certain matters.
- If companies take any decisions or draft any policies that may impact the employees, they should make sure that the decision is well thought, and it is communicated to the employees with proper reasons and explanations. In such cases, it is recommended that companies should hear sides of their employees also, if any and provide as much assistance as possible.



#### 5) What are the steps that may be taken by companies involved in manufacturing and where work from home will not be possible?

- Companies involved in manufacturing may co-ordinate with state and local officials so timely and accurate information can help them to take appropriate actions. Also, such companies should consider reducing transmission among employees, maintain healthy business operations and maintain a healthy work environment.
- To mitigate the damages and address future ambiguities, appropriate representations can also be made by group of stakeholders to the authorities seeking exemptions on loan payments/ tax exemptions etc. If companies deal with manufacturing of essential commodities like groceries and medicines etc. and provides essential services then, they should continue their businesses.

#### 6) How should an organization handle grievance of their employees while working from home?

An organization should adhere to its employee handbook/policies maintained in this behalf and accordingly deal with the situation. However, keeping the current scenario into consideration, an organization should consider devising a new grievance redressal system. Such system should include a detailed procedure to address and solve employee grievances even whilst working from home.

## 7) Who can function under a situation when there is a restrictive environment or a lock down?



Whilst dealing with the current pandemic, the following services/persons are allowed to function under a lockdown:

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| ➤ Health services and persons involved with logistic support of healthcare services;                                    | ➤ Pharmacies, pharmaceutical/surgical manufacturing and their transportation/ any other type of medical/surgical supplies; |
| ➤ All warehousing, storage and labour activities relating only to essential commodities;                                | ➤ Defence, central armed police forces, Early Warning Agencies etc.;   |
| ➤ District administration, disaster management and prisons etc.   | ➤ Shops and ration shops dealing with food and groceries, fruits and vegetables;   |
| ➤ Banks, insurance offices and ATMs;  | ➤ Telecommunications, internet services, broadcasting and cable services;  |
| ➤ Print and electronic media;   | ➤ Delivery of all essential goods including food, pharmaceuticals, medical equipment through e-commerce;                   |
| ➤ Petrol pumps, LPG, Petroleum and gas retail and storage outlets;  | ➤ Power generation, transmission and distribution units and services;  |
| ➤ Capital and debt market services as notified by Securities & Exchange Board of India;                                 | ➤ Industrial establishments involving manufacturing of essential commodities;  |
| ➤ Hospitality services which are accommodating tourists/persons stranded due to lockdown and quarantine facilities etc. |  |

## 8) Do establishments providing essential services/goods require any specific permissions?

As regards obtaining permissions for providing essential services/goods is concerned, the respective state governments have issued necessary notifications in this behalf. For example, In Delhi, people who come out to provide or avail essential services are being allowed to do so on their self-declaration. A provision has been made for them to apply online and obtain e-passes. In Maharashtra, police departments are issuing passes for their areas to persons engaged in providing essential services. Also, the Ministry of Home Affairs has come up with a standard operating procedure for maintaining supply of essential goods dated 26<sup>th</sup> March 2020.

**9) What steps should an organization take in case of new recruitment, exit of employees or under-performance of employees?**

- In case of a new recruitment, an organization should adopt virtual screening process, video conferencing, telecommunication applications etc. An organization can get the appointment letter, or any document signed but using applications that create electronic signature.
- In case of an employee exit, an organization should adhere to its employee exit policy. They should get non-disclosure agreements, confidentiality agreements etc. digitally signed. They may also hold exit interviews and explain about the exit policies vide video conferencing.
- As regards an employee who is under-performing or not performing as per the expectations/standards of the organization, an organization should adhere to its employee handbook/policies maintained in this behalf. It may not be advisable to change the policy in this regard keeping in consideration the current scenario and may be taken adversely by the employees.



**10) In case of a natural disaster or due to outbreak of crisis resulting in lockdown, can employers withhold pay or pay reduced salaries?**

If there is a restrictive environment or lockdown wherein employees are directed to work from home or it is not possible to work from home, then an employer will have to take a decision basis the employment arrangement or the company policy. In absence of any understanding in this regard, the company will have to take a judicious decision which will benefit the employee keeping in mind the interest of the company. We recommend that moving forward, companies should have policies in respect of extraordinary unforeseeable circumstances in order to minimize the risk of legal claims. Having said that, whilst making the decision, companies will have to adhere with any government directives as may be issued during any extraordinary unforeseeable circumstances. At the same time, there are no government orders which will ensure timely payment to the company by their clients therefore for the companies it becomes more of a cash flow issue than the intent of paying in full to its employees. In such situations, restructuring of the salary with deferred payment mechanism or linking it to performance cannot be ruled out.

**11) Whether Government directions advising companies to pay full salaries to employees have any legal backing?**

In the current scenario, whilst the Disaster Management Act, 2005 does not specifically provide for a legal basis on continued payment of wages, the concerned departments are issuing the necessary directions in this behalf.

For example, the Ministry of Labour and Employment department issued a circular dated 20<sup>th</sup> March 2020 wherein it is directed that no public or private enterprises will terminate their employees including casual and contractual workers from their jobs and will not deduct or reduce their wages for the period if employees take quarantine leave. Please see our analysis under **Point 10** above in this behalf.

**In case of any queries/clarifications, please feel free to contact:**

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