[How to Create a Legally Sound, Effective Telecommuting Policy](#)

Adjusting traditional HR procedures and systems to keep telecommuters productive and safe.

[Telecommuting](#) was growing fast even before the pandemic. And for good reason. Letting employees work remotely from home offers organizations significant benefits, like lower overhead, equipment and other costs, the capacity to utilize talent from just about any location and advantages in recruiting. But making a smooth transition to telecommuting also demands finesse, flexibility and imagination on the part of HR directors. For example, how do you control hours worked by offsite employees and ensure they don't rack up excessive overtime? How do you meet your OHS obligations to provide employees a safe workplace when they work from home? The starting point is to create and [implement a policy](#) that effectively addresses the unique management, productivity and legal challenges that arise when employees telecommute. Here's how.

The Importance of the Telecommuting Policy

One day, there'll be a body of law written specifically for telecommuting. Until then, HR directors must do their best to apply the traditional laws governing the employment relationship—employment standards, labour, OHS, human rights, workers comp, etc.—even though those laws were created to deal with employees who work on site. Similarly, traditional HR models for managing and maximizing productivity must be adjusted when employees work remotely from home.

The key to resolving these challenges is to get on top of them by proactively creating a comprehensive policy for establishing, managing and ending telecommuting arrangements. Although there's no such thing as a one-size-fits-all model, the template on the HRI website is a good starting point for creating a workable telecommuting policy for your own organization.

5 Problems Your Telecommuting Policy Should Address

Like our template, your telecommuting policy should address 5 sets of problems:

Problem #1: Maintaining & Monitoring Telecommuter Productivity

Problem: Maximizing productivity becomes harder when employees work out of the sight

of managers, supervisors and co-workers. Being at home also makes employees more prone to distractions such as children, the refrigerator and the TV.

Solution: While allowing telecommute arrangements requires employers to trust their employees, a policy can also help minimize productivity losses:

- **Maintain control over the approval of telecommuting requests.** Your policy should make it clear that employees need prior approval to telecommute. Reserve the right to make determinations on a case-by-case basis [Policy, par. 3]. List your criteria, including whether the telecommuter can sustain the quality of the work and perform it cost-effectively [Policy, par. 4].
- **Require written agreement.** Require the telecommuter to enter into a written agreement containing clear terms and conditions, including specific deadlines and productivity goals [Policy, par. 4].
- **Right to monitor.** Reserve the right to monitor telecommuters' effectiveness and periodically evaluate their performance. List the software, apps and other [digital remote monitoring solutions](#) you intend to use, explain how they work and get the employee's acknowledgement and consent to avoid potential privacy complaints [Policy, par. 7].
- **Right to terminate.** Specify that the telecommuting arrangement is voluntary and that you can cancel it at any time and for any reason. Among other advantages, including such a provision enables you to terminate the arrangement if you're dissatisfied with the telecommuter's work or productivity [Policy, par. 9].

Instruct supervisors to keep a close watch on telecommuters and to set and enforce deadlines with regard to their work. "Telecommuters have a tendency to drop beneath the supervisor's radar screen," warns one HR consultant.

Problem #2: Preventing Uncontrolled Overtime

Problem: Tracking and controlling hours worked and overtime accrued is a major challenge when the employee telecommutes. In fact, many HR directors cite this as their biggest problem with telecommuting.

Solution: Set ground rules on hours worked. First, say that you and the telecommuter will agree on hours of work. Spell out the agreed-to hours in the telecommuter agreement you both sign. Consider setting a maximum number of hours, (e.g., 8 hours per day) or specifying an exact work schedule, (e.g., from 9:00 a.m. to 5:00 p.m., Monday through Friday). Another possibility is to establish a weekly maximum that employees can't exceed without first getting the supervisor's written authorization [Policy, par.4].

Require telecommuters to keep and submit a weekly log of their work time so you can ensure that they're following scheduling ground rules [Policy, par. 4]. Of course, employees can always underreport their hours on the log. But employees who deliberately undercount hours worked will also have a harder time establishing a claim for overtime.

Problem #3: Maintaining Telecommuters' Safety

Problem: OHS laws require employers to furnish employees a safe place to work. The underlying premise of these laws is that employees will work on-site. But in recent years, some provinces have issued new regulations or guidelines extending the duty to protect to off-site employees, potentially including telecommuters who work alone in a setting where they'd be exposed to life-endangering or serious injury and help and rescue wouldn't be readily available if the hazard occurred.

Solution: Dedicate a section of the [policy to telecommuter safety](#) that provides for:

- The employee's duty to work safely and follow all OHS requirements;
- Inspection of the home work office site for fire, electrical, ergonomic and other hazards both initially and on a regular basis after the telecommuting arrangement begins;
- Giving the employee the needed safety training and instruction;
- Safe work procedures;
- Emergency evacuation and communication;
- Incident and injury investigation and reporting [Policy, par. 8].

Problem #4: Preventing Personal Use of Work Equipment

Problem: Employee misuse of company computers and other electronic equipment has become a major productivity and legal problem for employers. Controlling this problem is tough enough when employees work on site. It's an even greater challenge when the employee telecommutes.

Solution: Require that all work equipment be used for work purposes only [Policy, par. 6]. It should also make it clear that the telecommuter is subject to the same company policies as site employees, including those on bullying, cyberbullying and personal use of company equipment [Policy, par. 6].

Problem #5: Ensuring Cybersecurity & Confidentiality of Company Data

PIPEDA and provincial privacy laws require companies to protect the privacy and security of the personal information they collect, use and disclose about employees, customers and other individuals. [The risk of privacy and security breaches is much greater in telecommuting arrangements](#). Once people plug their own equipment and thumb drives into the company's information systems, problems are bound to crop up, including deliberate and inadvertent breaches as well as computer viruses, malware, etc.

Solution: Make sure that your policies and procedures dealing with computer usage and internet access, e.g., requirements that employees follow certain password protection and encryption procedures, apply to telecommuters. Require telecommuters to keep all files and other paperwork in a secure place. Instruct the telecommuter that these files are the company's property and must be returned immediately when their employment ends [Policy, par.5].