



Category 3

“Example of Best Framework Agreement”

Submission by the e-Work Action Forum of the “Code of Practice on e-Working in Ireland” which has been endorsed by the Social Partners in Ireland

Introduction

The e-Work Action Forum was established by the Mr. Noel Treacy, T.D., Minister for Science, Technology and Commerce to provide a focal point for the ongoing development of an environment which will stimulate e-working or teleworking employment opportunities and to provide an implementation mechanism for the recommendations in the Report of the National Advisory Council on Telework. An integral and important part of the Report was a Code of Practice on Telework which the Council recommended be endorsed by the Social Partners. The Code of Practice has been endorsed by the Government, IBEC (the employers’ representative body) and ICTU (the Congress of Trade Unions) and launched as the Code of Practice on e-working in Ireland. Representatives from the Social Partners are represented on the e-Work Action Forum and support the nomination of the Code of Practice in the Category “Best Framework Agreement “.

Title

The Framework Agreement is called the **Code of Practice on e-working in Ireland**. A copy of the Code of Practice is included with this submission. It can also be accessed on the website of the Department of Enterprise, Trade and Employment (www.entemp.ie/e-work).

Short Description of Activity

In 1998, a National Advisory Council on Teleworking was established by Mr. Noel Treacy, T.D., Minister for Science, Technology and Commerce. The Council had a very diverse membership comprising industry, academia, unions, teleworker representatives, State development agencies, information and communications companies. The Council was charged with the task of “advising the Minister on the development of Teleworking employment opportunities in Ireland and recommending attainable actions that will contribute to the realisation of these opportunities”

The Council presented its Report, “New Ways of Living and Working – Teleworking in Ireland”, in June 1999. It contained a wide ranging set of recommendations for the development of teleworking in Ireland. An integral and important part of the Report was a Code of Practice which the Council recommended be endorsed by the Social Partners. The Code of Practice was subsequently endorsed by the Government, IBEC (the employers’ representative body) and ICTU (the Congress of Trade Unions) and launched on 10 May 2000 as the “Code of Practice on e-Working in Ireland”.

The Code of Practice is designed to inform those who have an interest in e-working on a wide range of issues from the inception of the idea to the implications of e-working for the self-employed, employers and employees. The Code aims to encourage best practice in companies engaged in e-working arrangements for the benefit of employers and employees.

The Code provides pertinent information and assistance in identifying and clarifying key issues that need to be addressed in introducing an e-working policy in firms and organisations, e.g. identification of jobs suitable for e-working and e-worker identification, practical considerations such as home office, method of communications, reporting arrangements, health and safety. The Code also provides a useful overview of the legislation affecting employees’ rights and employers’ obligations. The position of

self employed e-workers is also considered. A sample e-Working agreement is included which can be tailored to suit individual circumstances. It is intended that the Code be updated and reviewed on a regular basis.

Participants

The Code of Practice on e-working was developed as an integral part of the work of the National Advisory Council on teleworking. The Working Party which developed the Code had representatives from employers' and employees' organisations.

Target Groups

The Code of Practice is of interest to those considering an e-work arrangement be they employers in the public or private sectors, employees, self-employed e-workers or those who may have previously been excluded from the labour market because of disability, family circumstances or location in a remote or disadvantaged area.

Objectives

e-Working is still regarded by many companies and employees as a new form of work organisation. Consequently, there tends to be hesitation and concern about getting involved in relatively uncharted work practices. It was obvious that, if e-working was to develop further, there was a need for clear guidelines as to what is involved in an e-work arrangement. The Code of Practice identifies, and sets down practical responses to, issues that need to be considered in formulating an e-work policy for a company. A primary objective of the Code of Practice is to clarify the position of e-workers as employees and to ensure that e-workers are recognized as legitimate workers, having the same employment rights and protections as other employees. The Code of Practice recommends that companies, in consultation with employees and union/employee representatives, where appropriate, draw up a formal written e-working policy, setting out how e-working will operate in that company. The introduction of such a policy can be a

way of avoiding potential problems and difficulties that may arise from the introduction of this new method of working.

Achievements

The National Advisory Council on Teleworking recommended that the Code of Practice be endorsed by the Government and Social Partners. Such was the importance attached to the Code that a commitment by the Social Partners to endorse the Code featured in the latest Social Partnership Agreement in Ireland. The Social Partners lost no time in endorsing the Code of Practice, which was launched on 10 May, 2000.

In endorsing the Code on behalf of the Government, the Minister for Science, Technology and Commerce, Mr. Noel Treacy, T.D., stated that the Code “will be of great assistance in identifying and clarifying key issues that need to be addressed in introducing an e-working policy in firms and organisations. If the potential of e-work is to be exploited fully, it is vital that clear guidelines are established which inspire confidence in both parties”.

Mr. John Dunne, on behalf of the Irish Business and Employers Confederation (IBEC), stated that “It (IBEC) is delighted to endorse the e-work Code of Practice which aims to encourage best practice in Irish companies to the benefit of employers and employees”.

Mr Peter Cassells, General Secretary, Irish Congress of Trade Unions stated that “Congress welcomes and endorses this Code of Practice on e-working as an important strategy both to develop and safeguard the position of workers”.

Detailed Description of Activities

Part One of the Code of Practice on e-working provides detailed information on the formulation of an e-work policy for a company.

The Code of Practice is designed to inform those who have an interest in e-working on a wide range of issues from the inception of the idea to the implications of e-working for the self employed, employers and employees. As indicated above, the Code aims to encourage best practice in companies engaged in e-working arrangements for the benefit of employers and employees.

The Code advises that, when introducing e-working into a company, employers should draw up a written policy which specifies how the e-working arrangements will operate in that company. This should be done in consultation with employees and union/employee representatives, where appropriate. The drafting of such a document can help avoid potential problems or difficulties that may arise with the introduction of e-working in an organization. A sample e-working agreement setting out some key areas that should be agreed upon before embarking on an e-work arrangement is included in the Code of Practice. This agreement can be varied by negotiation to take account of individual circumstances or working arrangements. Where the introduction of e-working gives rise to any changes in normal work practices or an employee's terms and conditions, these should be agreed between the parties at the outset. It is possible to use the sample agreement as a stand-alone document but the Code of Practice recommends that "it is most effective in conjunction with an agreed and detailed company policy on e-working". Appropriate issues for inclusion in such a policy are highlighted.

Issues addressed by the Code of Practice include:

- ◆ Hours of work
(Office based days/hours, home based days/hours, details on core hours (where applicable), flexible hours; recording of working time, overtime arrangements, etc.)
- ◆ Communications structures
(core contact times, team meetings, feedback, mentoring, etc.)
- ◆ Reporting in procedures:

- ◆ Home Office arrangements
 - Technical requirements
 - Provision of Equipment/furniture
 - Maintenance/Prevention of mis-use
 - Personal use of equipment
 - Health and Safety
 - Insurance
- ◆ Training

(induction, technology training, self-management skills, remote management skills - where appropriate)
- ◆ Security/confidentiality arrangements
- ◆ Terms and conditions

(application of company policies to terms of employment where they may differ as a result of e-working arrangements).
- ◆ Suspension/termination of e-working
- ◆ Monitoring and review process

Self-employed e-workers

The Code of Practice highlights a range of issues which self-employed e-workers need to address, from the necessity to have a clear written agreement with a customer to help avoid disputes, unnecessary work stress and non-payment of bills, to the need to make practical provision for a pension and adequate insurance. The need to consider mechanisms to avoid overwork and alleviate social isolation is dealt with also.

Employment Legislation and Employees Rights Protection

In Part 2 of the Code of Practice a short overview of the minimum legal entitlements for employees under Irish employment legislation is provided. The legislation considered is as follows:

Terms of Employment (Information Act), 1994
Payment of Wages Act, 1991
Employment Equality Act, 1998
Data Protection Act, 1988
Organisation of Working Time Act, 1997
Minimum Notice and Terms of Employment Acts, 1973 to 1991
Unfair Dismissal Acts, 1977 to 1993
Maternity Protection Act, 1994
Parental Leave Act, 1998
Redundancy Payments Acts, 1967 to 1991
Health Safety and Welfare at Work Act, 1989

The Code of Practice emphasises that an employee engaged in e-working has the same employment rights and is protected by employment legislation in the same way as all other employees. However, as indicated above, under some e-working arrangements clarification may be needed on how certain workplace agreements or the terms and conditions of a company's policies apply in an e-working situation. For example, the parties may need to address, having regard to workplace agreements and hours of work legislation, the core hours, if any, that must be worked or what days must be worked from the office rather than through e-working. Clarification may also be required on how certain pay and benefits, e.g. bonus and piecework systems or expenses, may apply.

Applicability of Code of Practice

The Code of Practice aims to encourage best practice in companies engaged in e-working arrangements. It provides a framework to assist and guide organisations in formulating an e-working policy. It details the areas that need to be addressed in drawing up an e-work policy and stresses the importance of consultation with employees and union/employee representatives, where appropriate. One of the great benefits of the Code of Practice is its universal applicability to all organisations in Ireland engaged in or considering an e-work

arrangement. Paying attention to the Code's provisions is a positive way of avoiding potential problems and difficulties that might result from the introduction of e-work arrangements.

The Code of Practices addresses most of the issues in relation to telework practices highlighted in the European Commission document *Partnership for a new organisation of work* as requiring attention by the public authorities and social partners. Therefore, the Code of Practice, particularly Part One, would be relevant and of interest to public authorities, organisations and employees in other countries involved in, or considering, e-work arrangements.

Conclusion

The Code of Practice on e-Working has been endorsed by the Social Partners as a major contribution to the facilitation of the introduction of effective e-work arrangements in companies and organisations. Adherence to the Code's provisions will result in the introduction of e-work arrangements that will benefit both employers and employees. By encouraging best practice, the Code will assist in ensuring that the potential benefits of e-working are spread as widely as possible.

The Code of Practice is being disseminated widely by the Social Partners.

New ways of Living and Working

e-working in ireland

Code of Practice

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A handwritten signature in black ink, which appears to read 'John Dunne'. The signature is written in a cursive, flowing style.

Foreword by John Dunne, Director General,
Irish Business and Employers Confederation

The structure of industry in Ireland has changed dramatically as we enter the new millennium, with advances in telecommunication radically transforming many aspects of Irish business. These advances have led to the emergence of a whole new type of business and way of working.

Today business, in all sectors of the Irish economy, is becoming more dependant on developments in information and communication technologies to service its market and remain competitive. Increase usage of mobile phones, laptop computers, the Internet and video conferencing has changed the way in which business is conducted.

e-Working or teleworking - the terms coined to describe a way of working with information technologies independent of any geographical location - can offer Irish business the potential to develop new business opportunities, improve productivity and maintain competitiveness. Employers concerned with staff retention issues are now investigating the introduction of e-working or teleworking as a flexible work option, particularly for employees with family responsibilities or those who spend long periods commuting. IBEC welcomes the work of the e-Work Action Forum in promoting e-work and developing Ireland as an 'e-work friendly location'. It is delighted to endorse the e-work Code of Practice, which aims to encourage best practice in Irish companies to the benefit of employers and employees.

part one

e-working arrangement and returning to conventional office working. Such terms should be agreed between the parties at the outset.

suitable jobs and e-worker selection

- Jobs suitable for e-working at a distance include those involving a high degree of information processing, clearly defined areas of individual work, and work where there are clear objectives, measurable outputs and minimal requirements for supervision. Some employees may have jobs where one part of the job description is suitable for home working while other parts need office resources or face to face interaction with other staff and thus may prefer to alternate e-working with conventional office working. Not all jobs will be suitable for e-working.
- Employees may opt to e-work or employers may specifically recruit e-workers.
- Depending on the nature of the work the following personal attributes and skills may be particularly relevant:
 - decision making and problem solving skills
 - time management skills
 - self discipline
 - communication skills
 - experience
 - ability to cope with reduced social contact
- Where an e-working arrangement is being proposed the suitability of the e-worker's line manager should also be considered, having regard to the need for skills in distance management.
- e-Working arrangements may offer a range of employment opportunities to people who may have been previously excluded from the Labour Market. Where e-working is introduced as part of a company disability policy, consideration should be given to appropriate support mechanisms that may be required by individual employees. Employers should also be aware of any

code of practice on e-working

- Benefit-in-kind: taxation implications of personal use of equipment (personal use can be considered a benefit in kind)
- Fringe Benefits: application of fringe benefits

Trade Unions

Where e-workers are members of a trade union recognised by the employer, the union should be consulted about the introduction of any e-working arrangements and with regard to any proposed changes to terms and conditions of employment, in line with normal practices. Employees working under e-working arrangements should have normal access to their trade unions, and vice versa.

monitoring and review

The e-working policy should include a procedure for regular monitoring and review. Where necessary the policy may need to be varied to take account of individual circumstances or working arrangements.

part two

overview of legislation

effectively with the assistance of special treatment or facilities, unless the cost to the employer of the provision of such treatment or facilities is more than a nominal one.

- *Data Protection:* employees who, as part of their work, act as data controllers or data processors must be aware of their obligations under the Data Protection Act, 1988 to ensure data are kept up to date and for lawful purposes, and that sufficient security measures are taken so that data are not disclosed.
- *Working time provisions:* Under the Organisation of Working Time Act, 1997 the maximum average working week is 48 hours but averaging may be balanced out over a 4, 6 or 12 month period. Employees are entitled to 11 hours daily rest per 24 hour period, to one period of 24 hours rest per week preceded by a daily rest period of 11 hours and to rest breaks of 15 minutes per 4.5 hours and 30 minutes where 6 hours have been worked.
- *Holidays:* From 1, April 1999 under the Organisation of Working Time Act, 1997 employees are entitled to four working weeks annual holidays for each leave year in addition to the nine public holidays. All employees, whether full-time, part-time or casual qualify for holidays based on hours worked.
- *Sunday premium:* employed e-workers who work on a Sunday are entitled to supplementary payment equivalent to the closest applicable collective agreement for the same or similar employment which provides for a Sunday premium. This premium can be in the form of added payment, paid time off in lieu, a portion of the shift premium or unsocial hours premium.
- *Zero hours:* where an employee is requested to be available for work and is not, on the day, asked to work, he/she is compensated for 25% of the time during which he/she is required to be available, or 15 hours in any week, whichever is the lesser.
- *Maternity protection and adoptive leave:* employees have a statutory right to (i) maternity leave of 14 weeks plus an option for an additional four weeks leave and the right to return to work after such leave and (ii) 10 weeks adoptive leave plus the option of an additional 4 weeks leave. Employees who satisfy

the contribution conditions are entitled to claim the Pay-Related Maternity Allowance from the Department of Social, Community and Family Affairs for the entitlement periods of 14 weeks (maternity) or 10 weeks (adoptive).

- *Parental Leave*: employees who are parents have a statutory right to 14 weeks unpaid leave. This entitlement relates to children born or adopted after the 3rd June 1996. The leave must be taken before the child reaches 5 years of age.
- *Notice of Dismissal*: employees who are normally expected to work at least 8 hours a week are entitled to statutory periods of notice which vary according to their length of service [Minimum Notice and Terms of Employment Act 1973-91].
- *Unfair Dismissals*: employees with one year's service are protected against unfair dismissal under the Unfair Dismissal Acts. The requirement of the one year's continuous service does not apply where the dismissal results from the exercising of rights under the Maternity Protection and or Adoptive Leave legislation or for trade union membership or activities. Dismissals are deemed unfair where they result from trade union membership or activities, pregnancy, religious activities, race, colour or sexual orientation, legal proceedings against an employer where the employee is a witness, unfair selection for redundancy, the exercise of a right to maternity, or adoptive leave, age or membership of the travelling community. The Act provides that an employee, who has been dismissed must receive the reason for dismissal in writing within 14 days from their employer.
- *Redundancy payments*: where an employee's job ceases to exist and they normally work at least 8 hours per week and they have been employed for over 104 weeks of continuous service they are entitled to paid compensation according to schemes laid out in the Redundancy Payments Acts 1967-1991.

Provisions of the following Acts may also apply to employed e-workers:

- Protection of Employment Act 1977;
- European communities (Safeguarding of Employees' rights on Transfer of Undertakings) Regulations 1980;
- Protection of Employees (Employers' Insolvency) Acts 1984;
- Worker Participation (State Enterprises) Acts 1977-1993;

- Industrial Relations Act 1946, amended 1969, 1976, 1990;
- Transnational Information and Consultation Act 1997.
- *Safety, health and welfare at work*: All provisions of the Safety, Health and Welfare at Work Act 1989 and the subsequent General Application Regulations 1993 apply to home offices and to work outside the conventional office. Both employer and employee have statutory duties based on common law duties of care and all persons must consider the impact their place of work or articles used at work have on the public or visitors to the premises.

The employer has a legal duty to ensure so far as reasonably practical, the safety, health and welfare of their employees. Employees are similarly obligated to co-operate fully with the implementation of the Act and comply with all appropriate health and safety provisions in the workplace. Employees are required to report without delay, any accidents or defects in workplace equipment that may lead to a risk or danger. Every place of work including a home office must have a Safety Statement, which can form part of the overall company safety statement. Carrying out a risk assessment of the home work station is the responsibility of the employer and may involve, by prior agreement, a home visit. The e-worker must be involved in this risk assessment. Where necessary the results must be explained to and understood by the e-worker. As conditions change the risk assessment may have to be repeated.

The risk assessment should cover:

- furniture: e.g. adequate space for a workstation, office chairs and tables which must be adjustable in order to comply with VDU health and safety regulations.
- electrical safety avoiding overloading of sockets, and safely stowing cables
- fire safety e.g. provision of fire extinguishers
- lighting levels
- provision of heating and ventilation

- maintenance procedures
- carrying heavy equipment
- VDU requirements - information on ergonomic posture for prolonged use of computer workstations and use of portable computers and on importance of eye sight tests for all regular VDU users
- procedures for reporting of workplace accidents
- awareness of dangers of social isolation through prolonged exclusive homeworking

Note: some companies now instruct employees not to use mobile telephones whilst driving because of the risk of accidents due to driver distraction or inability to correctly control the vehicle when hands-free sets are not in use.

Where the employees have selected a safety representative the representative should be able to visit the e-workers they represent in their home offices if appropriate e.g. to carry out independent health and safety inspections. The inspections should only be carried out by prior permission and consent of the e-worker, in accordance with the work agreement.

employment agencies

Some e-workers are classified as agency workers. Agency workers are persons who register with employment agencies, who in turn make these temporary workers available to a third party. In the past such workers were neither employees of the agency or the third party and as such were not protected by employment legislation. In recent years legislation has been implemented that protects the rights of agency workers in the same way as direct employees of a company. Agency workers now have the protection of the following pieces of employment legislation:

- Payment of Wages Act, 1991
- The Unfair Dismissals Acts. 1977 - 1993

- The Terms of Employment (Information) Act, 1994
- The Maternity Protection Act, 1994
- The Adoptive Leave Act, 1994
- The Organisation of Working Time Act, 1997
- Parental Leave Act, 1998
- Employment Equality Act, 1998

The 'employer' in such cases is deemed to be the party who is liable to pay the agency worker. In most cases this is the agency. For the purpose of unfair dismissal the employer is deemed to be the user of the agency worker, i.e. the client company. Employment agencies must be licensed by the Department of Enterprise, Trade and Employment.

- record the findings e.g. steps taken to reduce or eliminate risks in their safety statement
- check the risks regularly and take appropriate steps, especially if there is a change in working procedures.

The main relevant health and safety law for e-workers is the *1993 General Applications Regulations. Part VII* gives the main requirements for working with VDUs which are :

- a clear and stable screen, bright and free from glare, which should swivel and tilt easily
- adequate arrangement of keyboard characters, adjustable keyboard with sufficient space to support the hands and arms of the user
- sufficient user space to change positions and vary movements. Work desk sufficiently large, document holder adjustable and stable
- satisfactory lighting conditions
- minimised glare and reflection at the workstation, and minimisation of radiation levels
- work chair adjustable in height including the back rest
- a foot rest available if required
- environmental factors should be minimised including effects of reflection/glare, noise, heat and humidity

Part IV of the *1993 General Application Regulation* on the use of work equipment also applies, which states that when selecting work equipment account should be taken of specific working conditions, characteristics and hazards in the place of work and that equipment must be without risk to health and safety, or that steps are taken to minimise any such risk. Work equipment must also be kept adequately maintained throughout its working life. The 1989 Act and the 1993 General Application Regulations also state that workers should be adequately

formalities are to obtain an RSI number from the Revenue Commissioners should you not already have one, and to complete tax returns as appropriate.

- *Partnership*: this format is used to extend sole trader status to more than one person and normally involves the additional preparation of a written partnership agreement.
- *Limited company*: in this format the business is a separate entity from the individual, and is owned by shareholders in proportion to the number of shares held. The shareholders must meet at least once a year and appoint at least two directors to run the business. Limited companies must be registered with the Registrar of Companies and must also file an annual return including the accounts of the company with the Registrar of Companies in accordance with the Companies Acts.

Value Added Tax (VAT)

Any self-employed person can become liable to VAT if their turnover exceeds £20,000 per annum for the supply of services or £40,000 per year for the supply of goods. It is also possible to opt to be registered for VAT before turnover reaches these limits which can be advantageous for some businesses. In either case a VAT registration must be obtained from the Revenue Commissioners, and VAT accounts submitted subsequently, usually on a bi-monthly basis

part three

- Teleworking Manuals: Telecom Eireann, 1998
- Teleworking/Telecommuting report: IBEC, 1998
- Telnet Teleworkers Code of Conduct 1994: Devon & Cornwall TEC/Cornix Teleworking Consultancy
- The Health and Safety Issues for Teleworkers in the European Union: European Foundation for the Improvement of Living and Working Conditions (WP/97/29/EN)
- The Legal and Contractual Situation of Teleworkers in the European Union: European Foundation for the Improvement of Living and Working Conditions (WP/97/28/EN)
- The Social Implications of Teleworking: European Foundation for the Improvement of Living and Working Conditions 1997 ISBN 92-828-0592-1
- The Social Security Position of Teleworkers in the European Union: European Foundation for the Improvement of Living and Working Conditions (WP/97/27/EN)
- The Teleworking Handbook (2nd Edition): Imogen Bertin and Alan Denbigh, TCA, 1998
- Trade Unions and Telework: FIET report by Andrew Bibby 1997
- Health and Safety Authority Newsletter No.94
- Newsletter March 1994. The Health and Safety of Teleworkers
- Health and Safety Authority Guidelines on:
 - Preparing your safety statement
 - Health and safety of office workers
 - Safety Consultation and Safety Representatives

useful websites

- Andrew Bibby - telework articles
<<http://www.eclipse.co.uk/pens/bibby/telework.html>>
- British Telecom telework reports
<<http://www.labs.bt.com/innovate/telework.index.htm>>
- Communications Workers Union (Ireland) <<http://www.cwu.ie/>>
- Department of Enterprise, Trade and Employment
<<http://www.entemp.ie/e-work>>
- Enterprise Ireland <<http://www.e-work.ie>>
- European Telework Online <<http://www.eto.org.uk/>>
- Gil Gordon - telecommuting (USA) <<http://www.gilgordon.com/>>
- Herriott Watt University information and bibliography (Britain)
<<http://www.midnet.com/midnet/telework.htm>>
- Irish Government <<http://www.irlgov.ie>>
- Italian teleworking information <<http://www.societaitalianatelelavoro.it/>>
- Labour Telematics Centre (Britain) <<http://www.poptel.org.uk/>>
- MIRTI European project on labour law and telework
<<http://www.telework-mirti.org/>>
- Netherlands Telework forum <<http://www.ntforum.nl/>>
- Swedish distance working association <<http://www.telestugan.se/sve/>>
- Telecommute America! (USA) <http://www.att.com/Telecommute_America>
- Telecommuting Advisory Council (USA) <<http://www.telecommute.org/>>
- Telework Ireland <<http://www.telework.ie/>>
- The Telework, Telecottage and Telecentre Association (Britain)
<<http://www.tca.org.uk/>>

www.entemp.ie/e-world