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The Hidden Costs of Working From Home

By Toddi Gutner | [Business on Main](#)

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Businesses and employees see telecommuting as a way to save time and money, but don't be caught off guard by these potential legal and financial potholes.

There's a small army of 20 million to 30 million people who telecommute. Indeed, the opportunity to work from home is one of the benefits that many companies — especially small businesses — use to attract talent.

But you may not know that employers could be subject to some hidden legal potholes as a result of flexible work arrangements, particularly when it comes to time records, workers' compensation and security data issues. Here's how to stay flexible without incurring penalties that cost you time and money to resolve.

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Punching the time card

Documenting the number of hours an employee works is critically important. "Even when an employee is working from home, the employer is still subject to the Fair Labor Standards Act," says Mike Glassman, a partner at Dinsmore & Shohl LLP in Cincinnati. This act establishes parameters for minimum wage, overtime pay and recordkeeping in the private sector.

Paying workers hourly rates is especially common for small businesses and telecommuting-friendly industries. Think data entry or telemarketing. "Lots of people who're working from home are in a position where they're nonexempt from overtime — and that's where the line gets blurred," says Michael Hanlon, a partner with Blank Rome LLP in Philadelphia. "There's no time clock, and someone could say they worked 10 hours," he says.

To that end, companies need to have a system in place. They need to create a number of checks and balances, says Paul Lopez, the chair of the litigation department at Tripp Scott in Fort Lauderdale, Florida. "So if an employee is going to claim overtime, then the company has to have some way to trace the accountability," says Lopez. He recommends a computer program that requires employees to log in and log out, as well as daily timesheets to keep record of time worked.

Dealing with workplace injuries

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Another issue employers of telecommuters might overlook is workers' compensation. "If employees get injured while they're working, it becomes a claim," says Glassman. No doubt this is a very murky area, as it's difficult to monitor and verify. "The company needs to make sure with the workers' compensation insurance carriers that they have appropriate coverage," he says.

So if workers claim they're injured at home while on the job, how do employers determine whether they're covered by workers' compensation or under the employer's group insurance plan? The answer depends on when the injury occurred. "If the employee claims that he was injured at home in the course and scope of his employment, then the employer's workers' compensation would cover it," says Glassman.

If the injury occurred at the employee's home, but not during work hours, then workers' compensation wouldn't cover the injury. "Rather, it would be a claim covered under the employer's group health insurance plan," says Glassman.

While most telecommuting jobs don't lend themselves to injury-prone activities, make sure your work-from-home employees have established a safe working environment that will minimize future liabilities. To get more information, you may want to consult with a labor and employment attorney.

Keeping your data secure

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Finally, small businesses need to be concerned about data security issues — especially when employees are handling company information off-site. For example, it's not uncommon for employees working from home to download confidential documents onto home computers that aren't properly protected from spyware, malware or viruses.

To avoid potential data leaks, employers should ideally provide telecommuters with a separate work computer and printer. If employees are using personally owned computers, the company essentially has no control over data security, says Jon-Louis Heimerl, the director of strategic security for Omaha, Nebraska-based Solutionary, a management security provider.

So while telecommuting is definitely a nice perk to provide a motivated workforce, make sure you do your homework before offering up the opportunity.

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