

Home, office and hybrid working – Covid-related frequently asked questions

1 Going (back) to the office

a) Can my employer make me work in the office?

Yes, if your employment contract says your job is office based. However, employers have a legal duty to ensure organisations do not endanger health and safety (section 2, below, and the NUJ *Returning to Offices* factsheet). While specific coronavirus measures were relaxed across most of the UK in February 2022, the Health and Safety at Work Act (HSWA) 1974 (and numerous supporting regulations) remain in place.

Employers must carry out risk assessments (RAs) for potential exposure to biological agents such as viruses. These must cover risks to those on their premises – including visitors and volunteers – as well as everywhere employees go in the course of their work. RAs must cover both the likelihood of exposure and the consequences of infection.

Going to an office may also be a stressor within the context of the UK Health and Safety Executive (HSE) **stress management standards**. These cover the *demands on workers, control, support, relationships, roles and change*. Each potential stressor should be risk assessed separately.

RAs should be individual, as individual susceptibility to infection and to stress varies. Assessments must be carried out by appropriate qualified managers and be available on request. They are then used to ensure that “reasonable precautions” are in place to minimise risks.

■ <https://bit.ly/3UkKQEZ>

b) What if my commute is crowded and most people aren't wearing masks?

The UK law in 2022 was not clear. Best practice would be for employers to assess travel risks as a matter of course. With NUJ colleagues and reps, talk to managers to try to reach a position you can live with – such as off-peak travel.

■ <https://bit.ly/3NtIL7H>

Sick employees are less productive and therefore more expensive; it is always in an employer's best financial interest to ensure workers are safe. Taking risks to get to work may also be a “demand” stressor.

c) Can we talk to management as individuals or is it better collectively?

Negotiating with employers is always worthwhile, but if the employer has a recognised union then collective

approaches are best. We look after ourselves most effectively, taking best advantage of our collective strength and preventing employers from playing us off against one another.

If your organisation has an NUJ chapel which is not “recognised”, you can still elect safety reps who have legal health and safety rights. If there is no chapel or you are the only NUJ member, an NUJ organiser can help. (Contact details are online at: <https://www.nuj.org.uk/contact-us.html>) If there is an NUJ chapel, organisers can also put you in touch with chapel or branch colleagues.

If you ever want to raise a sensitive issue individually with management, try to have a trusted colleague with you – to take notes and witness to what is said. After a meeting, write to the manager concerned outlining your understanding of what was said to pre-empt future disagreements.

d) What about flexible hours and time off for childcare?

Legally, employees with 26 weeks' continuous service can request flexible working, though they have no right to it. There is an Advisory, Conciliation and Arbitration (ACAS) statutory Code of Practice on flexible working requests: the employer must deal with requests in a reasonable manner. One request can be made in any 12-month period and any contract change will be permanent unless agreed otherwise. There is nothing to stop employers agreeing to temporary informal arrangements in order to respond to short-term challenges. Working parents are entitled to up to four weeks' unpaid parental leave per year per child, capped at 18 weeks a year, to be used at any time up to age 18.

■ <https://bit.ly/3NuuxDA>

e) What if one of my family gets Covid overnight?

Employees are entitled to reasonable unpaid time off work to deal with family emergencies. Some employers might offer pay depending on your contract or the organisation's policy.

f) Do I have to be vaccinated?

No.

Employers should develop – in consultation with union reps – policies that cover situations where people may not wish to be in the same room as those who tell management or other staff that they have not been vaccinated. Establishing an organisation-wide approach agreed by everyone may be difficult but could pre-empt disagreements over unacceptable behaviour. The issue may also be seen as a stressor related to working relationships in the context of HSE stress management standards.

g) Can employers demand vaccination/Covid details?

Potentially. But employers must take into account employment law and employee contracts; health and safety requirements and the employer's duty of care to its whole workforce; equalities and human rights, including privacy rights; other regulations in the industry; current public health advice, and latest government advice. The Information Commissioner's Office lays out restrictions on UK employers. In the Republic of Ireland, the data protection regulator advises there is no legal basis for collecting vaccination data under GDPR.

■ <https://bit.ly/3ftNFFd2>

2 A safe office

a) How do I make sure my office environment is safe?

All employers have a legal duty to provide safe working environments. These include having sufficient fresh air in enclosed areas (see "What's the latest about air quality?" below); keeping the office clean; and providing facilities for staff to maintain proper hand hygiene covered in section 2 of the UK Health and Safety at Work Act (HSWA) 1974. You can help ensure that your employer's measures are effective. If possible, this means working near a window that can be opened, and remembering to wear a mask when moving around the office and in meetings where social distancing can't be maintained. If possible, limit external meetings or visitors attending the office. Use lifts when available, and make sure your employer lets employees stay at home when sick.

■ <https://www.legislation.gov.uk/ukpga/1974/37/section/2>

Don't forget employers' health and safety obligations cover everywhere you go in the course of your work.

If windows are open, the approved HSE code of practice says the minimum temperature in a place of work should be 16°C (or 13°C for people doing physical labour).

Employers and employees may disagree over which precautions are or are not "reasonable". Precautions should therefore be negotiated collectively for everyone's safety. (CEOs are not exempt from the protection of health and safety laws, even if they are legally responsible for any breaches, so it is in both their personal and professional interests to make sure they're as safe as everyone else.)

b) Are employers legally required to carry out RAs?

Yes, by law employers must consider the risks to their employees and do everything reasonable to minimise the risks. In relation to Covid, they must identify what work activity or situations might allow exposure to the coronavirus, consider who could be at risk (which is anyone on their premises and all places where work is carried out), decide how likely it is that someone could be exposed, and identify the reasonable precautions needed to reduce the risk. World Health Organization (WHO) and UK government websites can be helpful.

Even health and safety experts frequently forget that employers are required to assess the risks from any

"biological agent" that people may be exposed to at work. Before the coronavirus pandemic, concerns included Ebola fever for those travelling overseas, HIV, and hepatitis.

Risk assessments must cover, first, the likelihood of being exposed and then the potential consequences, so that "reasonable" precautions can be put in place. Following the withdrawal of coronavirus measures, the HSWA and supporting regulations detail the obligations for employers, as well as our own responsibilities for keeping one another as safe as possible.

Looking beyond the coronavirus pandemic provides an opportunity to address biological risks more widely – so that equality factors, such as impaired immunity during pregnancy, for example, are considered.

Risk assessments and reasonable precautions should cover all What, Who, How, Why, When, Where possibilities.

But risk assessments are useless on their own. They must be followed by ensuring reasonable precautions are in place. Assessments must be "suitable and sufficient", so don't be afraid to challenge either the qualifications of the person who carries them out or the details, if you feel they do not meet these criteria.

Safety reps are legally entitled to carry out inspections to ensure that assessments remain valid and that precautions are reasonable. All incidents and "near misses" should be logged and all such reports reviewed regularly.

c) What about air quality, ventilation and CO2 monitors?

Poor ventilation is a problem in places of work, regardless of the pandemic. Carbon dioxide (CO2) monitors are a good way of monitoring ventilation, and government guidelines advise the use of non-dispersive infrared (NDIR) CO2 monitors to measure ventilation. You should compare your organisation's risk assessment with recommendations that in an enclosed space, 400 parts per million (ppm) is very low and 1,500ppm is very high. Be aware that your organisation may not have published their assessments. You may have to push them to do so or seek union advice if they prove difficult.

■ <https://bit.ly/3zFlpGq>

The National Education Union (NEU) has produced comprehensive guidance on ventilation in schools that is also applicable elsewhere.

■ <https://bit.ly/3NE23Y8>

d) My organisation is downsizing. How do I ensure ergonomic standards if I have to hot desk?

Employers should ensure all workstations meet legal standards, including ensuring that desks are at the right height, that workers can elevate screens, use the right office chairs, and many other factors. If you are in an NUJ chapel, make sure there's a health and safety rep and ask them to carry out a formal inspection. Bring the HSE's Display Equipment requirements to management attention and point out that failing to comply with the regulations is a criminal offence. If management does not act or acts too slowly, talk to colleagues about raising a formal collective grievance or putting the matter into dispute. If an employer's response is still inadequate and internal procedures have

been exhausted, enforcement agencies – such as the HSE and local authority environmental health departments – can be called in.

■ <https://bit.ly/3T2Bmxj>

Check that an employer getting it right by doing your own assessment using the HSE ergonomics pamphlet.

■ <https://www.hse.gov.uk/pubns/indg90.pdf>

e) I want to wear a mask; my colleagues don't

In late 2022, the UK had no way to compel a colleague to wear a mask, so if coronavirus prevalence increases and people become uncomfortable around colleagues who don't wear masks, suggesting that meetings (involving such colleagues) are virtual, either online (from desks or home) or hybrid. Ideally, those not willing to wear masks should attend virtually. All work-related concerns (in the UK) should be considered within the context and remit of the HSWA.

If you want to wear an appropriate mask and maintain social distancing, do so. If colleagues behave differently, ask to see the risk assessment. If you feel it's not "suitable and sufficient", then – ideally through the NUJ (chapel) – challenge it, as the subsequent precautions are unlikely to be "reasonable". Also, don't forget to think of this as a work-related stressor in terms of *demands* or the effect on working relationships.

3. At home

a) How do I make my home work space safe from ergonomic and other risks?

If you are not normally freelance, you're likely to have limited and possibly inappropriate workspace and furniture at home. Try to set up a dedicated area so you don't have to clear work away; decent lighting; a suitable desk (not necessarily very expensive); a chair (which may be) and your screen at the right height. Having suitable hardware and software is essential: making do with inadequate kit often makes a stressful situation worse. HSE guidance is comprehensive.

■ <https://www.hse.gov.uk/pubns/indg36.htm>

b) Who pays?

The obvious and largest expense is having the right computer and software. This is the employer's responsibility. As for desks, chairs, and suitable lighting, you can suggest the employer pays. If you want to keep any of it, come to an arrangement.

c) How do I enforce screen breaks?

The HSE guidance says: "There is no legal guidance about how long and how often breaks should be for DSE work. It depends on the kind of work you are doing. Take short breaks often, rather than longer ones less often. For example, five to 10 minutes every hour is better than 20 minutes every two hours. Ideally, users should be able to choose when to take breaks."

Software, some free, can remind you when to take breaks.

Also, try to have your screen in line with a window – so you can glance away to focus on something further away.

Keeping eye muscles active by having to alter the lenses for different focal lengths can help reduce eye strain.

When at a keyboard and pausing to think, lift your arms and hands to do quick and simple stretching exercises. These help reduce the risks of muscular-skeletal disorders.

d) I'm freelance, but my work is affected by Covid. What should I do?

Problems include: not being able to travel for work purposes; feeling uneasy about going into an office when normally this would be ideal or necessary; and not being able to get in touch easily with (staff) colleagues. One guiding principle is that freelancers should not be expected to take risks that staff members would not.

The NUJ's Health, Safety and Welfare information sheets explain how to ensure that freelancers are covered by risk assessments if they come into offices, and that they aren't exposed to unnecessary stress by being asked to come in when it's not really necessary.

■ <https://bit.ly/3T5iSfs>

The *Returning to Offices* factsheet covers freelancers as much as staff: no one should work in environments they judge unsafe. Feeling cut off is considered in answering question 4b.

■ <https://bit.ly/3Uilnw4>

e) How do I make myself safe?

The HSE website sets out the legal requirements on employers and offers information and practical steps for employers and individuals on how to keep people safe and healthy at work.

■ <https://bit.ly/3DxKAFk>

4. Mental health

a) Returning to work in a world full of Covid is likely to cause mental distress. What help is available?

Some people who experience mental distress find that working from home (WFH) makes it worse, while others think WFH is more beneficial for managing their mental health. Employers should include this in WFH/office work balance risk assessments.

Every effort must be made to prevent mental health problems from developing. Risk assessments should be supported by reasonable precautions. The six groups of potential stressors in the HSE stress management standards – demands, control, support, relationships, roles and change – should be assessed individually. The HSE *Talking Toolkit* tells managers which questions to ask when assessing risks, and the reasonable precautions that they should have in place.

■ <https://bit.ly/3WrdLcv>

b) What about isolation at home? Or feeling unconnected/paranoid from lack of contact?

In offices, we bounce ideas around and ask for input without realising that's what we're doing. Being isolated at home can (though doesn't have to) feel undermining, making us feel obliged to resolve problems on our own. Consequently, you

may need to make a point of asking for help, even if this doesn't arise as a natural conversation as it might in an office. If this feels difficult, ask an NUJ rep or a supportive colleague for (informal) help. This can be a good use of time – by preventing anything getting worse.

c) Is it OK to ignore e-mail and social media out of hours? Can I insist on disconnecting from the always-on culture?

No one – including freelancers – should be expected to be on hand and contactable at all times – except in short-term situations when a job really demands this. If such pressure becomes a problem, seek help from your (chapel) rep, or an NUJ organiser if there is no chapel.

Too many managers – as well as union members and reps – are unaware, or forget, that the HSE has identified *demands and control* as work-related stressors.

5. Workers with disabilities

In 2022, a UK employment ruled that Long Covid was a disability. (■ <https://bit.ly/3U0uEzS>)

a) What happens if I am disabled or have a health condition?

This NUJ website holds valuable background information. Assuming your organisation knows you have an impairment or health condition, talk to your line manager about their provision, or reasonable adjustments, to accommodate you (as they are legally required to do). Alert your (H&S) rep and ask them to work with you or intervene for you.

■ <https://bit.ly/3h934v5>

If an employer doesn't make improvements, you may have to complain – and will probably need an NUJ organiser to support you (and your rep) to make progress. You could consider working from home (full-time), but you'll need your GP, hospital doctor or consultant to provide a medical rationale, itself a legally enforceable reasonable adjustment.

Also disabled workers may not have previously disclosed their disability or condition when circumstances present them with no choice, prompting concerns about potential discrimination or don't know how to raise them. Talk to a rep or an NUJ organiser so you can decide what to do and how.

b) What if I have become disabled during Covid, not because of it?

You'll probably need a doctor/consultant to write to the employer so they know they may need to make adjustments. Citizens' Advice has online information about what counts as a disability under the 2010 Equality Act, and what is considered "long-term". The Equality and Human Rights Commission (EHRC) website has more about reasonable adjustments.

■ <https://bit.ly/3NDsvBa>

■ <https://bit.ly/3sSdf9Y>

c) What if I have Long Covid?

As a tribunal has designated Long Covid as a disability, having a formal diagnosis is crucial. The World Health Organisation (WHO) has produced help for medics and employers. You should tell your doctor you think you may have Long Covid and ask for a formal diagnosis. Next, tell your line manager (and NUJ rep) and plan how to manage your work best when/if you feel up to it.

■ <https://www.longcovid.org/>

c) What is the law about commuting with certain illnesses or disabilities?

We know the law is not clear. But if you are distressed by, say, people not wearing masks, or you find commuting too hard physically, ask your doctor to help you reach some other less stressful arrangement with your employer, such as working from home, using taxis or minicabs (paid for by the organisation), finding nearby parking (again paid for if necessary), or flexible hours to avoid crowds.

d) Who pays for reasonable adjustments?

If you are accepted as having a long-term disability, then your employer must pay appropriately. However, getting them to do so may not be straightforward. Your chapel rep or NUJ organiser can help you. The UK government's 2022 Access to Work programme might cover adjustment costs so check your eligibility and apply if you can. Office, off-site and home working, reasonable adjustments should be reviewed to check that the support is right and meets the Equality Act and work-related stress is avoided.

■ <https://www.gov.uk/access-to-work>

Further information

Many national and international organisations have produced comprehensive guidance specifically about the impact of the coronavirus on working life while others have easily accessible information about trade unions and health and safety.

■ WHO: <https://bit.ly/3NtEKjC>

■ The International Labour Organization (ILO): <https://bit.ly/3DyhqN9>

■ The UK TUC: <https://www.tuc.org.uk>

■ ACAS (on homeworking): <https://bit.ly/3ft7Zqi>

■ ACAS (on flexible working): <https://bit.ly/3DBNm30>

■ The Labour Research Department (LRD) publishes books available free online for NUJ reps: www.lrd.org.uk/publications

■ HSE Stress Survey (help with stress at work) <https://bit.ly/3sWGMzg>

■ Hazards campaign (and conference): <https://bit.ly/3zGLd4T>

■ Links checked November 2022. This information is the best available at this time. Produced by the NUJ Magazines and Books Industrial Council (Mabic) and NUJ Health and Safety Committee. Please note this information is for guidance only and does not constitute legal advice. Should you require legal assistance, please contact a union organiser or NUJ rep. A separate fact sheet covers *Finding the Right Person* or visit: <https://www.nuj.org.uk/contact-us.html>