

Key topic

MHLW's Guidelines for Promoting and Establishing High-quality Telework

On March 25, the Ministry of Health, Labour and Welfare (MHLW) published a guideline titled the “Guideline to promote the appropriate introduction and implementation of telework” (hereinafter referred to as “the Guideline”). It is a revision of the “Guidelines for the appropriate introduction and implementation of off-site work using information and communications technology” developed on February 22, 2018. The Guideline presents policies intended to enable employers to promote and establish “high-quality” telework in ways that allow workers to work with peace of mind while engaging in appropriate labor management. Beginning in August 2020, the Study Meeting on the Future of Working within the Context of Telework (Chair: Motohiro Morishima, Professor of Gakushuin University and Professor Emeritus of Hitotsubashi University) held discussions aimed at achieving further progress in introducing and establishing telework, which spread rapidly amid the COVID-19 pandemic. MHLW revised the guideline based on the meeting’s report.

Promoting beneficial telework for both workers and employers

The Guideline states that it will be useful to consider the viewpoint of encouraging work-style reform so that the promotion of high-quality telework that brings benefits for both workers and employers, where employers engage in appropriate labor management and workers work with peace of mind. It also stresses that taking a new look at conventional ways of doing business and approaches to labor management within the context

of promoting telework will be advantageous for both workers and companies, as it will contribute to improve productivity. In order to ensure the smooth and appropriate introduction and implementation, the Guideline indicates that it is important for labor and management to establish rules on telework in advance through full discussion on the purpose of introducing it as well as matters such as the jobs and tasks to be covered by it, and the range of workers who are eligible to do it.

Points to bear in mind when selecting jobs, tasks, and workers for telework

Looking at the selection of jobs and tasks for telework, the Guideline points out that telework may be applicable to some jobs and tasks even in industrial categories and occupational classifications in which telework is generally considered difficult to implement. It states that “rather than simply concluding that telework is unsuitable, it would be better to change managers’ thinking and to consider conducting reviews on the way jobs and tasks are carried out.” It also notes the necessity of being mindful to ensure that jobs and tasks are not unduly skewed only toward workers who commute to the office.

As for the selection of workers to be eligible for telework, the Guideline states that care should be taken to ensure that workers are not excluded from the eligibility for telework solely due to differences of type of employment, such as regular employee or non-regular employee. It indicates that satellite office work or mobile work could be viable approaches for those who do not wish to work from

home, perhaps out of the fear that it will blur the line between work and home life. It adds that special attention should be given to facilitate communication particularly for new graduates, mid-career hires, and those who have just been transferred.

Reassessing existing jobs and tasks and promoting smooth communication

The Guideline presents three desirable approaches to the introduction of telework: (1) review and inspection of existing operations, (2) smooth communication, and (3) study toward implementation at the group company level. Specific measures to be taken for each approach are summarized below.

First, the Guideline points out that reassessing the way jobs and tasks are conducted, including changing workers' way of thinking within the workplace, is desired. The elimination of unnecessary seals and signatures, the dematerialization of documents, the use of electronic approvals, and the introduction of online meetings are effective means of reviewing and inspecting existing jobs and tasks.

Secondly, even as work styles change, steps should be taken to promote communication that is appropriately suited to workers' and companies' situations. Among other methods, the Guideline presents the use of software that enables communication similar to that in the workplace as a way of achieving this.

Thirdly, there is the possibility that the atmosphere in a particular workplace makes implementing telework difficult. For this reason, the top officers and management of companies must fully comprehend the necessity of telework and execute company-wide action toward it by presenting pertinent policies and the like. In some cases, relationships within the workplace or with business partners may make it difficult to promote telework for a single individual or single company. Therefore, the Guideline stresses the need to call for implementation of telework at the group company level or industry level.

Ensuring appropriate personnel evaluation in work styles involving non-face-to-face interaction

The Guideline mentions personnel evaluation systems, the handling of responsibilities for costs, and human resource development as issues to bear in mind in labor management. It identifies the following as specific measures to be taken for each.

Due to telework's nature as a way of working that involves non-face-to-face interaction, it can be difficult to grasp the status of individual workers' work performance as well as the abilities that are demonstrated in the process of producing results. Thus, the fundamental point to bear in mind with respect to personnel evaluations in telework is for companies to devise evaluation methods from the perspectives of how companies require workers in terms of working styles and reflect those requirements in personnel treatment to execute each worker's evaluation appropriately. As concrete examples, giving specifics on the work content and levels that supervisors require of their subordinates in advance, and flexibly providing opportunities for labor and management to have a common understanding of the status of achievement during evaluation periods are necessary. In particular, the Guideline states that when companies evaluate workers' behavior and emotional aspects such as eagerness to work and attitude, they should prepare and visualize the specific contents of behaviors to evaluate and the evaluation methods for them in advance.

The Guideline also points out that various inventive approaches could be applied to the evaluators who conduct personnel evaluations—for example, evaluators could be provided with training that ensures they can conduct proper evaluations. It adds that giving disadvantageous evaluation scores to teleworkers because they did not respond to emails during non-working hours, for example, is inappropriate.

Additionally, the Guideline stresses that, when the evaluation method for teleworkers will be distinguished from that for office workers, measures

must be devised to ensure that no one is prevented from being able to do telework. Evaluating office workers highly for the reason that they work in the office instead of choosing telework is inappropriate, as doing so will create a “barrier for workers to do telework.”

Establishment of rules for the expenses necessary for telework

With respect to the handling of expenses necessary for telework that it is not desirable for an excessive burden to be placed on workers because they do telework. The handling of the cost burden varies from company to company depending on the content of jobs and tasks, whether or not articles are lent, and other factors. Thus, the Guideline states that it is desirable for labor and management to fully discuss in advance which side—labor or management—will bear costs and how it will bear those costs, and to establish rules according to each company’s circumstances and stipulate them within work regulations, etc. With regard to expenses generated as a result of telework (such as home telephone and electricity charges), the Guideline states that one approach could be to calculate the expenses rationally and objectively based on the actual circumstances of work from home (such as the number of hours worked) and pay for them.

Developing human resources by applying unique online advantages

The Guideline stresses the use of online resources for human resource development in telework situations. It points to the importance of devising ways of using the unique advantages of online resources, stating that “such resources are also effective for in-house education.” In particular, the usefulness of providing necessary training in the early stages following telework’s introduction or when new equipment is brought into use.

Telework is an effective method in that it allows workers to carry out their jobs and tasks autonomously taking into consideration the times of the day that workers spend for work as well as the full attention that workers give to their own health

and work performance. The Guideline stresses this point and goes on to state that companies must develop human resources by devising new ways of doing jobs and providing in-house education so that each worker can carry out his or her jobs and tasks autonomously. It also points out that appropriate supervision by company management is important in allowing workers to work autonomously, and that efforts should be made to improve management’s supervisory skills.

Establishing and disseminating telework rules in work regulations

The Guideline notes the necessity of establishing and disseminating rules for telework. It summarizes actions toward achieving this mainly in terms of applying laws and regulations relating to labor standards and developing work regulations. For workers under the Labor Standards Act (LSA), the Guideline confirms that the LSA, the Minimum Wage Act, the Industrial Safety and Health Act, and the Industrial Accident Compensation Insurance Act also apply even when they engage in telework. In addition, employers should establish telework rules that were formulated through labor-management consultations in their work regulations and make them fully known to workers appropriately so that telework can be implemented smoothly. In cases where workers can flexibly choose where they do telework at their convenience, the Guideline suggests that employers could specify “employer’s approval criteria” and then establish in regulations that telework is possible at locations that the employer has approved. It also identifies other points that deserve attention, one of which is the need for employers to change the content of labor contracts with workers’ consent when they have those workers do telework beyond the scope of the work locations and work methods that were specified in the workers’ labor contracts or work regulations.

Handling of telework under various working hours systems

The Guideline summarizes the relationship

between telework and the various working hours systems and indicates ways of handling telework under those systems flexibly. According to the Guideline, telework can be implemented under all of the various working hours systems defined in the LSA. Accordingly, it is possible to engage in telework while keeping a working hours system that was adopted before telework's introduction. If a working hours system will be changed to facilitate the implementation of telework, it can be changed in accordance with the introduction requirements of the relevant system. The Guideline mainly outlines the relationship with telework for the following three working hours systems.

(1) Regular working hours system and hours-averaging system

Under the regular working hours system and variable working hours system, it is necessary to establish work start and end times as well as scheduled working hours in advance. In the case of workers who work from home and do not gather at the office, "a degree of freedom may be allowed for each of them to decide the start and end of daily working hours when they are not necessarily required to work uniform hours."

(2) Flextime system

Under the flextime system, workers can decide when to start and end their work. The Guideline stresses that such a system "fits easily with telework." Because of this characteristic, a flextime system can maximize harmony between work and life for the worker, as, for example, it permits flexible adjustments of start and end times to suit the worker's life patterns when working from home.

(3) Deemed working hours system for work outside the workplace

The deemed working hours system for work outside the workplace is applied when a worker does work outside the workplace and consequently it is difficult to calculate his or her working hours. This system permits flexible work arrangements for workers who work with a certain degree of freedom within the context of telework. The Guideline states that the deemed working hours system for work outside the workplace can be applied to telework

where 1) the workers are not required to keep information and communication equipment in a constant state of communication at the direction of the employer, and 2) they are not performing work based on the employer's specific instructions at any time.

Ascertaining working hours using ICT

The Guideline lays out ways of thinking and areas where new approaches can be tried with respect to working hour management in telework as well as points to bear in mind in the handling of specific events. In the case of telework, devising new ways of ascertaining working hours becomes necessary, as work takes place outside of the conventional office environment and the employer is unable to make on-the-spot verifications. On the other hand, the Guideline points out that labor management can be facilitated with the use of information and communication technology (ICT). Moreover, it presents the following two methods that are based on the "Guidelines for Measures to Be Taken by Employers to Properly Monitor Working Hours" (Kihatsu No. 0120-3; January 20, 2017).

(1) Confirming work start and end times based on objective records, such as records of time spent using a personal computer (ascertaining working hours from records of time spent using telecommunications equipment used for telework, etc., and satellite office entry/exit records, etc.)

(2) Ascertaining working hours from workers' self-reporting. The Guideline identifies some important points regarding workers' self-reporting. They include giving sufficient explanation on the self-reporting system's proper operation to those who actually manage working hours, and not taking measures to prevent workers from reporting their working hours properly.

Countermeasures to long working hours by curbing the sending of emails, restricting system access, etc.

The Guideline also covers the handling of events that are specific to telework. Specifically, it provides

examples of measures to be taken in five areas: (1) time away from work during working hours, (2) travel time when doing telework for a portion of working hours, (3) handling of rest periods, (4) working hours management relating to overtime work and work on days off, and (5) measures addressing long working hours.

Regarding (1), which concerns time away from work while doing telework, the Guideline states that one possible method of ascertaining this time is to have workers report it at the end of the workday. It also mentions “treating time away as a rest period and pushing back the end of the workday, or treating it as annual paid leave calculated in hourly units” and “treating the time between the start and end of work as working hours, excluding rest periods” as possibilities.

For (2), travel time when doing telework for a portion of working hours, “treating the time that is guaranteed as available for the worker to use freely as a rest period” is one possibility. However, the Guideline also notes that if “an employer orders a worker to make a move between workplaces that is necessary for the execution of work, and as a result travel time in which free use of time is not guaranteed” occurs, even if it is during telework, this time falls under working hours.

For (3), which concerns the handling of rest periods, Article 34 paragraph 2 of the LSA stipulates that, in principle, rest periods should be granted to all workers at the same time. The Guideline states with regard to teleworkers that “the principle of granting of rest periods at the same time can be exempted based on a labor-management agreement.”

The LSA regulates that when employers have workers work overtime or on rest days (namely, have workers work over maximum working hours under the LSA and work on legally required weekly rest days), they are required to conclude a labor-management agreement (called “Article 36 Agreement”) with a majority representative of workers in the establishment on overtime and work on days off, file it with the government agency¹ and pay premium wages, and when employers have workers work late at night, they are required to pay

premium wages for late-night work. The Guideline states, regarding (4) above, that it is desirable for employers to properly grasp their workers’ working hours situations and reassess working hours and work content as necessary when implementing telework.

Looking lastly at (5), which concerns ways of preventing long working hours during telework, the Guideline suggests curbing the sending of emails; restricting access to internal systems; and establishing procedures for overtime work, work on days off, and unscheduled late-night work. It also suggests that employers establish in advance the time periods and number of hours during which overtime work and the like is possible through a labor-management agreement.

Accidents occurring during telework are covered by worker’s accident compensation insurance

The Guideline summarizes efforts to ensure health and safety in telework as well as the details of compensation for industrial accidents. First referring to health and safety management, particularly with respect to workers doing telework at home or elsewhere, there are many cases where workers find it difficult to communicate with their supervisors, and where supervisors have difficulty noticing physical or mental changes in workers. It states that employers should develop health consultation systems and take measures to encourage communication by, for example, using the “Checklist for Ensuring the Health and Safety of Teleworkers (For Enterprises).” It also notes the importance of requesting reports on the conditions of work environments by using the “Checklist for Verifying Work Environment when Telework is Done at Home, etc. (For Workers),” and other tools and making improvements through labor-management cooperation when necessary, and of considering the use of satellite offices, etc.

Second, on the topic of worker’s industrial accident compensation insurance for telework, the Guideline states that “accidents in telework that are caused as a result of being under the control of an

employer based on a labor contract are covered by industrial accident insurance as work-related accidents.” It mentions the appropriate storage of objective records (such as on the use of telecommunications devices) and time records reported by workers as a measure that employers could take. It adds that workers should be made to understand that, if they suffer a workplace accident, they should record as much as possible about the circumstances of the accident to help their employers and medical institutions accurately comprehend the situation.

Responses to harassment and measures for security

The Guideline takes up the matter of dealing with harassment (workplace bullying) and security encountered in telework. Employers are obligated to implement employment management measures to prevent “power harassment” (a phrase used in Japan to refer to harassing behavior by someone in a superior position toward his/her subordinates), sexual harassment, and other forms of harassment

(hereinafter referred to collectively as “harassment”) in the workplace. It states that with telework, as with work in an office, employers must take sufficient measures to prevent harassment—such as by informing and educating workers that harassment is never acceptable—based on relevant laws, regulations, and guidelines. As for information on security measures during telework, the Guideline asserts that, rather than uniformly determining that all jobs and tasks are uniformly excluded from telework due to information security concerns, it is better to consider solutions and judge each job and task individually based on advancements in related technologies.

1. If an employer has concluded a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, and has filed a notification of this agreement with the relevant government agency pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, the employer may extend the working hours or have a worker work on a day off, in accordance with the provisions of that agreement (Article 36 of LSA).