

## **Dual Workplace / Flexible Working**

This guide has been written in conjunction with HMRC. The following principles and guidance have been agreed.

### **Introduction:** Relevant Guidance

1. EIM 32065 which links to EIM32140 for 'multiple places of work'  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32065>
2. EIM32105: No deduction is due for Ordinary Commuting  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32015>  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32270>
3. EIM32070 for meaning of 'Regular'  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32070>
4. EIM32075 for meaning of 'temporary workplace'  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32075>
5. EIM32080 for meaning of 'duration'  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32080>
6. EIM32150 for 'Temporary purpose'  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32150>
7. EIM32080 where Limited Duration consider 24 month/40% time rule  
<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32080>

### **Scenario 1:**

Mark works 4 days a week at Government department in Canary Wharf which is his main place of work. On the day that he does not attend the office, he works from commuter hubs closer to his home or if he cannot work from a hub, will work from home. His two closest hubs are in Bedford and Stevenage, there are no set days on which he works from the commuter hubs, and which hub he attends depends on the availability of desks at the hub.

### **Will either of the commuter hubs be a permanent place of work?**

#### **Answer**

In this instance, we do not need to consider the temporary workplace rules as the journeys from home to either Stevenage or Bedford are ordinary commuting and therefore any expenses paid will be taxable. This is because tax relief will only be due for the cost of travel to a place at which the employee's attendance is *necessary* in the performance of his or her duties.

In this case, Mark is choosing to work at the Stevenage and Bedford hub because it is closer to his home, and not because the duties of his employment *require* him to work at Stevenage or Bedford.

**Tax Treatment:** Any expenses, if paid to Mark for the journey from home to either Stevenage or Bedford are taxable because Mark's attendance there is ordinary commuting, for his personal convenience and is not necessary to perform the duties of the employment. This is illustrated by the following HMRC guidance:

<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32015>

<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32270>

### **Scenario 2:**

Dean works at a Government department in Canary Wharf which is his main place of work. However as part of his role he is required to attend the Bedford and Stevenage commuter hubs. There are no set days on which he works from the hubs and the purpose is to make sure he is visible and available to the teams based there.

Dean's working pattern over the last 10 weeks is as follows, and is representative of his working pattern over the period of a year:

Week 1 - Stevenage 2 days, Bedford 1 day, home 1 day and Canary Wharf 1 day  
Week 2 - Stevenage 1 day, Canary Wharf 4 days  
Week 3 - Stevenage 2 days, home 1 day and Canary Wharf 2 days  
Week 4 - Stevenage 4 days, home 1 day  
Week 5 - Stevenage 1 day, Bedford 1 day, home 1 day and Canary Wharf 2 days  
Week 6 - Stevenage 3 days, Bedford 1 day and Canary Wharf 1 day  
Week 7 - Stevenage 1 day, Bedford 1 day, home 1 day and Canary Wharf 2 days  
Week 8 - Stevenage 0 days, home 1 day and Canary Wharf 4 days  
Week 9 - Stevenage 2 days, Bedford 1 day and Canary Wharf 2 days  
Week 10 - Stevenage 3 days, home 1 day and Canary Wharf 1 day

**Will either of the commuter hubs be a permanent place of work?**

### **Answer**

#### **Stevenage**

Q1. ORDINARY COMMUTING = **No**. Consider whether temporary or permanent workplace.

Q2. REGULAR ATTENDANCE = **Yes**. Attendance is frequent and follows a pattern so would be considered to be regular attendance.

Q3. TEMPORARY PURPOSE or LIMITED DURATION = **No**. The need to attend the sites are part of the role requirement and are not for a temporary purpose or task of limited duration.

**Tax Treatment:** Any expenses if paid to Dean for the journey from home to Stevenage are taxable.

#### **Bedford**

Q1. ORDINARY COMMUTING = **No**. Consider whether temporary or permanent workplace

Q2. REGULAR ATTENDANCE <sup>1</sup> = **No**. Stop – the facts do not demonstrate that there is regular attendance, so Bedford is a temporary workplace.

**Tax Treatment:** Any expenses paid to Dean for the journey from home to Bedford are not taxable.

### **Scenario 3:**

Jo travels to work at a Government Department in Croydon, which is her main place of work. Her department encourages flexible ways of working and she regularly chooses to work from a commuter hub in Watford, if desks are available. When she cannot secure a desk at the hub, Jo works from home.

**Are expenses claimed for travel to Watford taxable?**

### **Answer**

In this instance, we do not need to consider the temporary workplace rules as the journey from home to Watford is ordinary commuting. This is because tax relief will only be due for the cost of travel to a place at which the employee's attendance is *necessary* in the performance of his or her duties.

In this case, Jo is choosing to work at the Watford hub because it is more convenient for her, and not because the duties of his employment *require* Jo to work at Watford.

**Tax Treatment:** Any expenses if paid to Jo for the journey from home to Watford are taxable. As in scenario 1. Tax relief will only be due for the cost of travel to a place at which the employee's attendance is necessary in the performance of his or her duties and in this instance the temporary workplace rules would not need to be considered.

### **Scenario 4:**

Martin works for the Ministry and his main workplace is at the Ministry HQ near Whitehall. Martin lives near Salisbury and commutes into London each day. The Ministry introduces flexible working and Martin takes advantage of this and on average works from the Basingstoke commuter hub which is roughly half way in distance between his home and the Ministry one day a week. Whilst at Basingstoke Martin undertakes the full duties of the role. In addition, he also works from home one day a week too. The Ministry then moves its corporate finance function to Canary Wharf and Martin's main place of work becomes Canary Wharf but Martin finds that he attends meetings at the Ministry's HQ for one day a week. He will access emails (via smartphone etc) whilst at the Ministry HQ but the primary purpose / reason for travel to the Ministry HQ is to attend specific meetings. So, Martin's working week is:

Canary Wharf 2 days or more  
Ministry HQ 1 day (mixed with attendance at Canary Wharf)  
Home 1 day  
Basingstoke 1 day

### **Are expenses claimed for travel to the Basingstoke Commuter taxable?**

#### **Answer**

##### Basingstoke

In this instance, we do not need to consider the temporary workplace rules as the journey from home to Basingstoke is ordinary commuting. This is because tax relief will only be due for the cost of travel to a place at which the employee's attendance is *necessary* in the performance of his or her duties.

In this case, Martin is choosing to work at the Basingstoke hub because it is more convenient for him, and not because the duties of his employment *require* Martin to work at Basingstoke.

**Tax Treatment:** Any expenses if paid to Martin for the journey from home to Basingstoke are taxable. As in scenario 1. Tax relief will only be due for the cost of travel to a place at which the employee's attendance is necessary in the performance of his or her duties and in this instance the temporary workplace rules would not need to be considered.

### **Are expenses claimed for travel to Canary Wharf taxable?**

#### **Answer**

##### Canary Wharf

Q1. ORDINARY COMMUTING = **Yes**.

Q2. REGULAR ATTENDANCE = **Yes**.

Q3. TEMPORARY PURPOSE or LIMITED DURATION = **No**.

**Tax Treatment:** Any expenses if paid to Martin for the journey from home to Canary Wharf are taxable.

### **Is the Ministry HQ a permanent workplace following the move of the corporate finance function to Canary Wharf?**

#### **Answer**

##### Ministry HQ

Q1. ORDINARY COMMUTING = **No**. Attendance is required as part of the duties of the employment

Q2. REGULAR ATTENDANCE = **Yes**. Attendance at the Ministry HQ is once a week.

Q3. TEMPORARY PURPOSE or LIMITED DURATION = **Yes**. Visits are for the temporary purpose of specific self-contained meetings and the primary reason for attending the Ministry HQ. Although Martin will access emails and take telephone calls, these are incidental to the meetings.

**Tax treatment 1** – If Martin travelled directly from home to the Ministry HQ which would be the same journey but an extra 15 minutes tube journey to Canary Wharf, then it is worth highlighting that sometimes an employee may travel to a temporary workplace that is not significantly different from the normal ordinary commute. A journey that is for practical purposes, substantially the same as the employee's ordinary commuting journey is treated as if it were also ordinary commuting. In

this example Martin's journey from home to the Ministry HQ is substantially the same as the journey from home to Canary Wharf. The HMRC guidance on this point is: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32300>

As a result, any expenses if paid to Martin for the journey from home to the Ministry HQ are taxable.

**Tax treatment 2** – If Martin travelled to the Ministry HQ from the Canary Wharf office after having started work there (as is likely to be the case) then this is travel between two workplaces and would be regarded as a business journey.

The HMRC guidance on this is: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32360>

Therefore, any expenses if paid to Martin for the journey from Canary Wharf to the Ministry HQ are not taxable.

### **Scenario 5:**

Jonathan lives south of London and works for a Government department at Croydon which is his main place of work. Jonathan takes on a project where he is expected to travel to Reading one and a half days a week for 28 months.

**Does the Reading office become a permanent workplace, and are expenses claimed taxable?**

### **Answer**

#### Reading

Q1. ORDINARY COMMUTING = **No**. Attendance is required at Reading in performing duties of the employment

Q2. REGULAR ATTENDANCE = **Yes**. One and a half days a week for 28 months

Q3. TEMPORARY PURPOSE or LIMITED DURATION = **Yes**. the project is for limited duration of 28 months. Therefore, we now need to consider whether the 24-month rule / 40% time applies to determine whether Reading is a permanent or temporary workplace.

Q4. 24 MONTH RULE = **Yes**. the project is expected to last in excess of 24 months therefore we need to consider the 40% rule.

Q5. 40% TIME RULE = **No**. Attendance at Reading is only one and a half days a week which is less than 40% of working time spent there and therefore Reading is still treated as a temporary workplace.

**Tax Treatment:** As Reading is a temporary workplace, if expenses are paid from home to Reading they are not taxable.

### **Scenario 6:**

Paul lives in north London and works for a GD at Westminster which is his permanent place of work. Paul attends a Senior Management Team (SMT) meeting at Croydon once a month. After the SMT meeting he utilises a touch down desk to log in and see to emails. He might have other self-contained meetings in Croydon, otherwise he will usually travel back to the office at Westminster.

## Is Croydon a permanent workplace?

### Answer

#### Croydon

Q1. ORDINARY COMMUTING = **No**. Attendance is required as part of the duties of the employment

Q2. REGULAR ATTENDANCE <sup>1</sup> = **No**. Stop – the facts do not demonstrate that there is regular attendance, therefore Croydon is a temporary workplace.

**Tax treatment 1** - expenses if paid to Paul for the journey from home to Croydon are not taxable.

**Tax treatment 2** – If Paul travelled to Croydon from the Westminster office after having started work there (as is likely to be the case) then this is travel between two workplaces and would be regarded as a business journey.

The HMRC guidance on this is: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32360>

Therefore, any expenses paid to Paul for the journey from Westminster to Croydon are not taxable.

### Scenario 7:

Usman works at a Government department in Westminster which is his main place of work. His employer introduces flexible working and provides hubs across the country where employees can work from providing line management has agreed. Usman decides to work from the Heathrow airport commuter hub twice a week and then works from the Westminster offices for the remaining 3 days.

## Would the Heathrow commuter hub be considered a permanent workplace?

### Answer

#### Heathrow commuter hub

In this instance, we do not need to consider the temporary workplace rules as the journey from home to Heathrow is ordinary commuting. This is because tax relief will only be due for the cost of travel to a place at which the employee's attendance is *necessary* in the performance of his or her duties.

In this case, Usman is choosing to work at the Heathrow hub because it is more convenient for him, and not because the duties of his employment *require* Usman to work at Heathrow.

**Tax Treatment:** Any expenses if paid to Usman for the journey from home to Heathrow are taxable.

### Scenario 8:

Michael lives in Luton and works 5 days a week at the Ministry in Whitehall which is his main workplace. He makes the journey to the Ministry each day from his home in Luton. Once a month

Michael attends meetings at the Croydon office. Michael makes the journey to the meetings in Croydon from his home in Luton. Whilst at Croydon he will also utilise a touch down desk to see to emails but the primary reason for attending Croydon is to attend meetings. The significant part of the day is spent in these meetings.

### **Is Croydon a permanent workplace?**

#### **Answer**

##### Croydon office

Q1. ORDINARY COMMUTING = **No**. Attendance is required as part of the duties of the employment  
Q2. REGULAR ATTENDANCE <sup>1</sup> = **No**. Stop –the facts do not demonstrate that there is regular attendance, therefore Croydon is a temporary workplace.

If Michael travelled directly from home to the Croydon office then it is worth highlighting that sometimes an employee may travel to a temporary workplace that is not significantly different from the normal ordinary commute. A journey that is for practical purposes, substantially the same as the employee's ordinary commuting journey is treated as if it were also ordinary commuting. In this example Michael's journey from home to Croydon is not substantially normal commuting because the extra distance travelled (when compared to the home to Whitehall journey) is an extra 10 miles. The HMRC guidance this point is: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32306>

**Tax treatment** - Any expenses if paid to Michael for the journey from home to Croydon are not taxable.

#### **Scenario 9:**

Sarah, works in the Ministry in Whitehall which is her main place of work. After 6 months Sarah's Job is relocated to the department's office in Croydon. Once a week Sarah is required to return to the Ministry's office in Whitehall to attend a SMT meeting, on the odd occasion she carries out duties relating to her role after the SMT but usually returns to the Croydon office.

### **Does the Whitehall office remain a permanent workplace?**

#### **Answer**

##### Whitehall office

Q1. REGULAR ATTENDANCE = **Yes**. Attendance is for 1 day a week. Go to Q2  
Q2. TEMPORARY PURPOSE or LIMITED DURATION = **Yes**. To attend SMT

**Tax treatment 1** – The Whitehall office is a temporary workplace, so any expenses paid to Sarah for the journey from home to Whitehall are not taxable.

**Tax treatment 2** - If Sarah travelled to Whitehall from the Croydon office after having started work there and then returns, the journeys are travel between two workplaces and would be regarded as a business journeys.

The HMRC guidance on this is: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32360>

Therefore, any expenses paid to Sarah for the journey from Croydon to Whitehall and return are not taxable.

### **Scenario 10:**

Helen works for the Ministry in Whitehall which is her main place of work. She spends most of her time there but every month Helen is required to spend one day at the Ministry's office in Leeds and one day at the Ministry's office in Bristol. Because it works best for all concerned the days at Leeds and Bristol are on the same day each month. Helen must make these visits because she meets with her staff for team meetings in both Leeds and Bristol. As well as line management duties performed at these locations, Helen will also access emails.

**Are the Leeds and Bristol offices both permanent workplaces?**

### **Answer**

#### Leeds and Bristol offices

Q1. ORDINARY COMMUTING = **No**. Attendance is required as part of the duties of the employment  
Q2. REGULAR ATTENDANCE <sup>1</sup> = **No**. Whilst the attendance follows a pattern it is not frequent.  
Therefore, the facts do not demonstrate that there is regular attendance, therefore both Leeds and Bristol are temporary workplaces.

**Tax treatment:** Any expenses if paid to Helen for the journey from home to either Leeds or Bristol are not taxable.

### **Scenario 11:**

Under a GDs flexible working arrangement, Charles works from a commuter hub in Greenwich for 4 working days a week. For the other day of the week, Charles is required to attend a senior management meeting for the majority of the day at the Canary Wharf office. When in Canary Wharf Charles utilises a touch down desk for an hour before the meeting to print off meeting documents and see to emails and also for an hour after the meetings have finished to catch up on emails. The primary purpose for travel to Canary Wharf is to attend meeting and the work before/after is incidental.

**Is Canary Wharf a permanent workplace?**

### **Answer**

#### Canary Wharf

Q1. REGULAR ATTENDANCE = **Yes**. Attendance is for 1 day a week.  
Q2. TEMPORARY PURPOSE or LIMITED DURATION = **Yes**. To attend meetings. The email work before/after is incidental to the primary purpose. In this example, Canary Wharf is a temporary workplace.

The HMRC guidance says that an employee may attend a workplace regularly and perform duties there that are not of limited duration without that workplace becoming a permanent workplace, provided that the purpose of each visit is temporary.

Where a visit is self-contained (that is, arranged for a particular reason rather than as part of a series of visits to the same workplace for the continuation of a particular task) it is likely to be for a temporary purpose.

**Tax treatment** - Any expenses if paid to Charles for the journey from home to Canary Wharf are not taxable.

### **Scenario 12:**

A slight variation of the above.

Under a GDs flexible working arrangement, Charles works from a commuter hub in Greenwich for 4 working days a week. For the other day of the week, Charles attends the Canary Wharf office for a short catch up meeting on a project he is involved in. Whilst there he arranges a number of other meetings to ensure that his day is productive and uses the time in between to catch up on emails.

**Is Canary Wharf a permanent workplace?**

### **Answer**

#### Canary Wharf

Q1. REGULAR ATTENDANCE = **Yes**. Attendance is for 1 day a week.

Q2. TEMPORARY PURPOSE or LIMITED BY DURATION = **No**. There are sufficient additional activities here to show that the attendance is not for a temporary purpose.

**Tax treatment** - Any expenses if paid to Charles for the journey from home to Canary Wharf are taxable.

<sup>1</sup> **Attendance once a month** - For completeness, it is worth highlighting there might be particular circumstances where attendance once a month is deemed to be regular. Where an employee attends a workplace on a monthly basis as part of an ongoing employment and their attendance represents all or almost all of the time they perform the duties of the employment, this may amount to regular attendance. A good example would be a non-executive director who only attends a GD workplace once a month and this was the entirety of the working time.

**This is an area that HMRC will review as part of normal compliance activity with customers. Therefore, if you identify any issues when applying this guidance or identify any potential errors, please contact your HMRC Customer Compliance Manager.**

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**If you have any questions on the above, please get in touch with your hub contact.**