



BY EMAIL

HR Policy Branch
People and Organisational Development
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6 May 2025

Dear [REDACTED]

**WITHOUT PREJUDICE
CTUS RESPONSE ON DRAFT HYBRID WORKING POLICY**

Thank you for the correspondence of 4 April 2025. Please find CTUS initial response, *without prejudice*, as follows:

Workplace Attendance Requirements

We are all aware of the success of the current Hybrid Working policy as an integral part of Better Ways of Working in the NICS. It has undoubtedly helped to deliver the business needs and the flexibility for a modern, front-facing, innovative organisation that we all want the NICS to be. It has without question delivered a much-improved work/life balance for our members.

To move forward in a constructive manner, we must look at the lessons learned over the past five years and over recent experience in the NICS and UK Civil Service where civil servants have been directed back into physical workplaces.

The emerging evidence from the UK Civil Service is that top-down arbitrary mandates do not work. Instead the focus of an effective and flexible hybrid working policy should be on purposeful office work that truly supports collaboration and innovation. The FDA in the UK have surveyed members in the Senior Management grades and produced the report 'The future of office work in the Civil Service'. This reported that the majority of managers who responded did not believe a mandate of fixed office attendance was helpful or beneficial.

We have also seen examples of this policy being trialled in practice, most notably in DfC, where a 40% attendance threshold became an exercise in simply getting people into the office on any available day, regardless of whether their team was in or not, due to office space constraints. This undermined the core purpose of office attendance which is collaboration, team building and shared innovation. Teams who had been working effectively under locally agreed flexible models found themselves fragmented, attending offices alone or in isolation, attending Teams meetings from office desks instead of from



home. The benefit of being in the workplace was lost, replaced with what appeared to be arbitrary box-ticking.

The draft policy and associated papers do not provide an evidence-based approach to the review. CTUS need to understand the evidence basis for the change in current policy and our members will expect this too. Is there evidence to suggest that current policy does not deliver on business needs or the necessary flexibility for future working in the NICS?

We believe hybrid working has helped to restore some much-needed improvement in morale across the NICS. It has also made working in the NICS more attractive for potential recruits and aligns it to some of the benefits that are widely available from other employers. If a redrafted policy of Hybrid Working relies on a mandated approach, top down from Permanent Secretaries, tying in Grade 7s and leaving the bad news to be delivered by Line Managers, the gains secured to morale will be lost.

This issue is compounded by the ongoing reduction of the NICS office estate. CTUS wrote to DOF Properties Division regarding the NICS Office Estate Strategy on 22 November 2024, highlighting that the Strategy may not be able to support a mandated 40% attendance as DfC and others had stated was their aim. That correspondence cited the reduction in workstations will be from 16826 in 2022 to 9777 by early 2028 (excluding JBOs). The Strategy report has outlined that significant square footage has already been lost with further disposals and space reductions planned. Therefore, CTUS strongly believe there are not enough workstations to accommodate a mandated 40% office attendance across departments, allowing for purposeful office work and the fostering of meaningful, effective teamwork.

Feedback from our members has also reported that staff struggled for desk space. This isn't just an issue for individuals, but it means teams often aren't sitting together, that meeting rooms become unavailable, with meetings taking place via Teams undermining the idea that the mandate helps with collaboration and mentoring etc. If the purpose of the policy is to support team collaboration, it may have the opposite effect. Space constraints become the overriding factor - not business need, collaboration, or productivity.

Hybrid working must be more than a percentage. Setting an arbitrary minimum attendance does not deliver the value and benefits that hybrid working can offer. Instead, the policy should focus on purposeful work and presence, bringing teams together when the nature of the work requires it, when collaboration would benefit from face-to-face engagement, or when development, mentoring or induction needs are best supported in person.

Additionally, a real concern is that the burden of this implementation – and it will be seen by members as inflexible and unpopular – will fall to the Line Managers to implement. Line Managers have worked with staff and Senior Managers to navigate the pandemic through Hybrid Working and Better Ways of Working and have seen the NICS able to deliver on business needs, meet business targets, action estate savings and increase the work/life balance of our members, among other benefits. This flexibility should not be lost by a blunt edged mandate, Line Managers should be allowed to manage.



Furthermore CTUS do not believe Line Managers at any grade, should be expected to be in the office any more than their colleagues in each workplace. Managers whether Line Manager, Middle Manager or SCS should not be treated separately to other civil servants.

For all the above reasons CTUS are therefore opposed to an arbitrary 40% office attendance mandate particularly without any evidence to support such a direction. The evidence of the last 5 years of Hybrid working as part of the Better Ways of Working approach points to a different conclusion – we should support and encourage Line Managers to take decisions on workstyle agreements that support business need and individual work style preferences. Staff development, collaboration and training are all better delivered when Line Managers are able to work with staff constructively and productively without any need of a mandate.

We will comment on aspects of the policy and associated papers (**see Annex 1 attached**), but this first part of our response needs to be addressed by Management Side. Central Whitley has worked well over the last 5 years and this ‘mandate from above’ will be seen as a departure from the constructive approach taken during the pandemic years and after.

Yours sincerely

MARIA MORGAN
Deputy General Secretary
On behalf of CTUS

CTUS comments - Hybrid Working Policy, Procedure & FAQ's

These comments are caveated as without prejudice to our fundamental position on arbitrary office attendance. Comments on implementation should not be read as agreement.

POLICY

1.2 The NICS also recognises the importance of face-to-face engagement to support staff wellbeing and maximise learning and development opportunities and team cohesion. Therefore, the NICS is adopting a hybrid working policy approach to embed both the wellbeing benefits of spending time working together in person (i.e. less isolation and loneliness), and the business benefits, through more effective team working, and enhanced learning opportunities through day-to-day interaction with colleagues and customers

CTUS note that the policy recognises the importance of working **together** as our earlier comments refer and it should involve purposeful office work.

3.1 The term 'workplace' is used throughout to indicate your designated office, or where it is necessary to conduct official business, another work or remote location (other than your home) as agreed by line management

"another work or remote location (other than your home)" should include Hubs.

The second sentence should read "Hybrid working by its blended nature requires you to attend your workplace as required".

3.3 Senior management will be responsible for: ... (iii) communicating the business area workplace minimum attendance requirements to line managers in their business area.

4.8 Senior management will as far as possible, subject to business need, encourage and facilitate hybrid working to improve business delivery, maximise efficiency and support work life balance. Senior management will be responsible for communicating to staff the business need and minimum workplace attendance requirements of their business area.

A Grade 7 (or equivalent) may not be in a position to determine whether all their less senior grades need to attend the office in order to ensure business delivery. The current policy allows the decision to rest with the line manager. This is appropriate as they should understand the job role of the applicant.

In an appeal process we assume it is the G7 that is named as the line manager is only enacting the G7 instruction? This may put the line manager in a difficult position as it will be them cited in any potential dispute, although they are following instruction.

3.6 If an agency worker wishes to avail of hybrid working, they should complete a workstyle agreement for consideration by their line manager. If hybrid working is not accommodated and an agency worker considers the request has not been considered fairly and consistently,

*they should raise this with their Agency under the respective complaints process. **The Agency will consider the complaint and liaise with the relevant business area as necessary.***

Whilst it is accepted that the Agency is the employer, Agency workers should have the same rights to consideration, trade union representation and appeal. "Liaise with the relevant business area" does not provide sufficient clarity.

3.8 Hybrid working arrangements and workstyle agreements should be reviewed at least annually or where:

- *a relevant change occurs, such as a change in business needs;* This should be a material change that requires additional attendance e.g. extended counter opening hours and agreement with the job holder and their line manager.
- *a request for a reasonable adjustment is made;* CTUS would highlight the statutory obligation on the employer to treat a Reasonable Adjustment as a legal duty under the Disability Discrimination Act 1995 (DDA). Separate wording needs to be in the policy to ensure this point is underlined.
- *the requirements of the job role changes;* * Again, this must be a change that requires additional attendance e.g. extended counter opening hours and agreement made between the job holder and line manager.
- *the member of staff requests a change to the operation of hybrid working;*
- *there is a change in management structure; and* *This needs to impact on the actual member of staff. This could be destabilising and cause a lot of unsettlement and reduce morale in a team that is undergoing frequent rotation of managers, given the high level of vacancies and temporary promotions in the NICS.
- *the member of staff moves to a new NICS post.*
- *a performance management requirement is identified.* A review is acceptable, but a change to workplace should not be compulsory and should only apply where remote management has been tried and was not effective. Hybrid working was launched along with New Ways Of Working which promotes remote working via use of Teams, Jabber etc. The technology is there to support positive staff interaction even where the two members of staff are in different locations. Underperformance could still be managed remotely, with emphasis on outputs being closely monitored and regular feedback provided by management.

BUSINESS NEEDS

4.2 Hybrid working is subject to business needs. The primary focus must always be on meeting the needs of the Civil Service by supporting our Ministers and the Executive by maintaining high quality public services, productivity and performance standards. Business needs should not be compromised in order to facilitate hybrid working.

Managers should be required to give full reasons which explain each duty that cannot be satisfactorily discharged from home.

Refusal of hybrid working must also be based on business needs. Flexible working arrangements are a right that all employees with 26 weeks service can request under Article

112F of the **Employment Rights (NI) Order 1996**. That particular employment right was extended in April 2015 to all employees with 26 weeks continuous employment service with their employers. Now there is no longer a need, as there was previously, for an eligible employee to show that they are a carer of a child or disabled person and that they desire an adjustment to their working arrangements to deal with those caring needs. Requests may now be made for any reason. The amendment was made by Section 19, **Work and Families Act (NI) 2015**.

Work and Families Act (Northern Ireland) 2015

Section 19: Flexible working: removal of requirement to be a carer

Section 19 removes the requirement that an employee must have parental or caring responsibility in order to make a request to an employer to change the employee's terms and conditions with respect to hours and location of work. The effect is to extend the right to request flexible working to all employees who have the necessary period of service (currently 26 weeks).

Subsection (2) repeals Article 112F(1)(b) of the ERO which requires an employee to be responsible for the care of a child or in certain cases a person over the age of 18 in order to make a request for flexible working. *Subsection (3)* repeals other provisions which are no longer necessary following the removal of the requirement to be the carer of a child or adult.

PART IXA (FLEXIBLE WORKING) of the Employment Rights (Northern Ireland) Order 1996 define grounds to refuse applications to vary a contract (para 112G).

The Hybrid Working Policy is relatively new to NICS, but it was already established in law under **PART IXA (FLEXIBLE WORKING) of the Employment Rights (Northern Ireland) Order 1996**

112F.—(1) A qualifying employee may apply to his employer for a change in his terms and conditions of employment if—

- (a) the change relates to—
 - (i) the hours he is required to work,
 - (ii) the times when he is required to work,
 - (iii) where, as between his home and a place of business of his employer, he is required to work, or
 - (iv) such other aspect of his terms and conditions of employment as the Department may specify by regulations,

The law sets out the relevant grounds where it can be refused, namely:

Employer's duties in relation to application under Article 112F

112G.—(1) An employer to whom an application under Article 112F is made—

- (a) shall deal with the application in accordance with regulations made by the Department, and
- (b) shall only refuse the application because he considers that one or more of the following grounds applies—
 - (i) the burden of additional costs,
 - (ii) detrimental effect on ability to meet customer demand,
 - (iii) inability to re-organise work among existing staff,

- (iv) inability to recruit additional staff,
- (v) detrimental impact on quality,
- (vi) detrimental impact on performance,
- (vii) insufficiency of work during the periods the employee proposes to work,
- (viii) planned structural changes, and
- (ix) such other grounds as the Department may specify by regulations.

Where does team collaboration / the need for interaction in the workplace with other team members and colleagues for development, learning and support fit in with the legal requirements?

*4.4 Hybrid working is subject to a requirement that you will attend the workplace **at least 40% of your contractual working hours per week**. If you work an alternative working pattern, workplace attendance will be calculated on a pro-rata basis. Where attendance is calculated on a pro-rata basis and is less than 3hrs 45mins per week, the calculation may be based on a two-week basis.*

What evidence has been obtained to determine that this mandatory requirement is necessary? Which business areas are failing to meet standards? Hybrid working does not have a “one size fits all” solution. What is the purposeful reason for office attendance? If the guiding principle of the policy is business need then line managers should be able to monitor and decide on office attendance for their own area.

Would suggest staff are “encouraged” rather than required or that the language reads e.g. staff should “normally” attend the office etc.

Part-time attendance requirements are contradicted by the Procedures which state: “may be varied through discussion and agreement with their line manager”. These staff may also be put under further pressure as there can be a perception that they are ‘a burden’, now their work patterns may be under scrutiny, and they are more likely to work separately from their colleagues. The rolling 2-week Rota for some could remove a consistent and stable routine.

4.6 To ensure teams feel supported and the benefits of face-to-face interaction in the workplace are optimised; and a learning culture is embedded, Senior Civil Servants are encouraged to attend the workplace for more than the 40% minimum workplace attendance requirement per week.

CTUS would oppose this additional attendance expected of senior managers and all members of staff should be treated equally. This paragraph should be removed.

4.9 Senior management will also encourage and promote the benefits of workplace attendance and face to face interaction to support team cohesion, embed a collective learning culture, and support health and well-being.

CTUS have raised the points about the huge reduction in workstations across the office estate. Please specify how senior managers will be able to deliver this given the lack of desk availability?

4.10 Line management will have as essential leadership role in ensuring that the workplace attendance requirement is adhered to by their team, taking account of any agreed alternate working patterns, or reasonable adjustments.

CTUS are concerned about the onerous task placed on line managers on monitoring the mandate.

4.11 Remove the last sentence.

4.13 ... It is recommended that line managers hold team engagement sessions / days as these are also of value and you should be flexible to ensure you can attend the workplace when these sessions are arranged by managers. Managers shall ensure where possible, adequate notice is provided.

Team briefs are usually on a monthly basis. How long would an “engagement session” last – not likely to be all day? Are managers going to compel staff to come into the office to attend a meeting for an hour which could be more easily attended remotely? If line managers are going to start arranging “engagement days” just to get staff into the office this will have the effect that (a) less priority work will be done and (b) line managers will have to be present in the office more than their staff in order to accommodate the various work patterns of their staff complement.

PROCEDURE

2.1 ... The term ‘workplace’ is used throughout to indicate your designated office, where it is necessary to conduct official business, or other work, or remote location (other than your home) specifically agreed by line management.

CTUS interprets that “another work or remote location (other than your home)” also includes Hubs and this should be made clear.

3.1 All staff operating hybrid working will be required to attend the workplace at least 40% of their contractual working hours and in line with the requirements of their business area (as determined by senior management in accordance with para 4.4 to 4.6 of the Hybrid Working Policy).

As previously stated, what evidence has been obtained to determine that this mandatory requirement is necessary? Which business areas are failing to meet standards? Hybrid working does not have a “one size fits all” solution and should be flexible. What is the purposeful reason for 40% office attendance? CTUS would suggest staff are “encouraged” rather than required.

3.2 Line Managers should review any existing reasonable adjustments to ensure they continue to meet their members of staff’s needs.

This wording is concerning for CTUS and should be replaced with “Line Managers are aware that implementation of reasonable adjustments is a legal duty under the Disability Discrimination Act 1995 (DDA). Reasonable Adjustments should continue to be accommodated and actioned under these procedures”. The language on Reasonable Adjustments and Disability needs to be robust.

4.2 For part time staff and those working compressed hours, there is a requirement that they too will spend at least 40% of their contracted hours in the workplace. Where there is not a practical way for a member of staff to achieve this on a weekly basis, the time period may be varied through discussion and agreement with their line manager.

Part-time attendance requirements are contradicted by the Policy which states: “is less than 3hrs 45mins per week, the calculation may be based on a two-week basis”. See CTUS comment on earlier policy.

5.2 A decision to approve a request for hybrid working will depend on several factors, including business need and the nature of the job role; not all job roles will be suitable for hybrid working. A decision to approve a request for hybrid working will depend on several factors, including business need (as defined at para 4.2 of the policy) and the nature of the job role. Not all job roles will be suitable for hybrid working.

The same sentence is repeated twice. Refer to CTUS comments under the draft Policy as regards business needs

6.2 Senior management will be responsible for: (i) fairly and consistently considering business need; (ii) determining the potential for job role /activities to be delivered through a hybrid working model

CTUS believe that a Grade 7 (or analogous) or Grade 5 or 6 in the Public Prosecution Service would not be in a position to determine whether all their less senior grades need to attend the office in order to ensure business delivery. The current policy allows the decision to rest with the line manager. This is appropriate as they should understand the role of the applicant - CTUS believe that the current role of the line manager should continue in these procedures.

6.3 In assessing the potential for job role/activities to be delivered through a hybrid working model (i.e. whether those activities can be performed effectively away from the designated workplace), senior management should consider the following:

- *What is the job role/activities or service provided?*
- *What will be the effect on service delivery?*
- *Consider here the main activities of the job and the extent of:*
 - (i) Working alone at a desk, on a computer;*
 - (ii) Need to access hard copy reference materials, case files etc.*
 - (iii) Scheduled meetings and contact needed with other employees, customers and stakeholders - face to face, telephone, email and alternatives;*

- (iv) *Time usually spent at locations other than the designated workplace e.g. customer/client premises;*
- (v) *Collaborative work e.g. project work, the exchange of ideas/information and access to tools/facilities.*
- (vi) *Which of the duties could be carried out at home/remotely? How much of the working week/month do these usually take up? Which duties can only be carried in the workplace? How much of your working week do these take up?*

CTUS believe that this should sit with line managers rather than senior managers.

7.8 Line managers should also consider and agree:

- *how the work can be monitored in terms of output,*
- *how regular contact with staff and/or their team will be maintained.*
- *any equipment required.*

CTUS agree that the line manager reference is appropriate.

7.11 Where staff work exclusively in the workplace, line managers should be sympathetic where possible to requests to work from home on an occasional ad hoc basis.

CTUS propose amending the start of the wording to “Where staff are required to attend the workplace....”

*7.12 Line managers should note that agency workers are expected to attend the workplace in line with requirements of NICS staff. If an agency worker does not agree with the workplace arrangements, they should use their Agency’s complaints process to raise their concern(s). The Agency will consider and liaise with the business area as required. Further guidance to support line manager discussions with staff is set out at **Annex C**.*

See CTUS comments on Agency Workers under Policy at 3.6.

On a general point, has any consideration been given to the DFC Psychologist report or have the NICS commissioned any work on the benefits of hybrid working over the past 5 years?

8.2 Workstyle Agreements should be reviewed at least annually or where:

- *a relevant change occurs, such as a change in business needs;*
- *a request for a reasonable adjustment is made;*
- *the requirements of the job role changes;*
- *the member of staff requests a change to the operation of hybrid working;*
- *there is a change in management structure; and*
- *the member of staff moves to a new NICS post.*
- *a performance management requirement is identified.*

See CTUS comments at paragraph 3.8 under Policy

9.1 The requirement for staff to attend the workplace is a reasonable management request. Where staff fail to attend the workplace in accordance with their Workstyle Agreement, this may result in disciplinary procedures being initiated.

CTUS disagree with the sentiment of this paragraph and it should be removed.

9.3 While all efforts should be made to resolve the issue informally, line managers can at any time take formal action in response to repeated misconduct. Line managers are advised to seek advice from NICS HR Employee Relations before initiating any formal action.

CTUS suggest amendment to “line managers should seek advice from NICS HR before initiating...” and add “the advice should be documented”.

Annex A, page 17

- CTUS request including the ‘Do’s and Don’t’ section of the ECNI [Flexible-Working-RightToRequest.pdf](#) (see extracts in our comments on policy)

*Annex B Hybrid Working Roles and Responsibilities
Senior Management to consider business need etc.*

Point 1 – CTUS strongly believe this needs to be amended to “Senior Management and the line manager to consider business need etc.”

Annex C, page 21

5th bullet point about reasonable adjustments - see CTUS comments above. The language in the bullet needs to be strengthened.

Annexe C contd

Final bullet point would read better as “Those experiencing morning sickness and in the later stages of pregnancy, symptoms of menopause or undergoing gender reassignment may find the homeworking element of hybrid working helpful”.

Step 3, Page 27

- Change final sentence to read...”you should take advice from NICS HR before considering formal discipline procedures”.

HYBRID WORKING FREQUENTLY ASKED QUESTIONS

CTUS have already provided our objections regarding the mandated approach of 40% office attendance. Therefore we must object to the repeated references within the FAQs to a minimum attendance requirement of 40%. Management Side should adopt a more encouraging approach towards office attendance.

Q6. Can I attend the workplace for less than 40% of my contractual working hours each week?

Everyone is required to attend the workplace for a minimum of 40% of their contracted hours each week.

For the reasons already cited CTUS disagree and this paragraph needs to be reworded via consultation with CTUS.

Q7. How will my hybrid working arrangement be determined?

Your hybrid working arrangement will be determined by completing a Workstyle Agreement which will be agreed with your line manager. You will be required to attend the workplace at least 40% of your contracted working hours. However, to maintain service delivery within your business area, the workplace attendance requirement may be higher.

The workplace attendance required will be determined by senior management responsible for your business area.

CTUS require the second sentence in the first paragraph is removed. The workplace attendance should be determined in discussion with the line manager and senior management. Who hears an appeal? The person above the Line Manager but below the Grade 7?

Q11. How long will a hybrid working request take to process?

Line managers should **acknowledge** receipt of the Workstyle Agreement request within **five** working days and should **arrange to discuss** the request and how the workplace attendance requirement will be implemented with the requesting member of staff **within 10** working days of receipt of the request.

When your request has been agreed, your Workstyle Agreement will set out the commencement date, the days for workplace and home attendance and will confirm your designated workplace.

There is no time limit on when a written decision will be issued, which will lead to decisions given verbally and with no paperwork to advise of appeal rights.

Q13. How often should a Workstyle Agreement be reviewed?

See CTUS earlier comments in relation to this particularly regarding a change in management structure – this should not lead to an automatic review of a work style agreement.

Q15. Can I work from other remote locations other than my home?

Yes, you may work from other work or remote locations if specifically agreed with your line manager. There are a number of Connect2 hubs across the region which may be utilised for team meetings or to provide an ad hoc remote location. Connect2 hubs are not designed for long-term lone working; do not replace your designated office and should only be used with the prior agreement of your line management.

- This is the first mention of Hubs as they are not referenced in the Policy or Procedures.
- “Do not replace your designated office” – CTUS believe that they should count as a day in the workplace.

Q24. How do I manage a member of staff who is failing to maintain their workplace attendance requirement.

Whilst all efforts should be made to resolve the issue informally, line managers can, take formal action at any time in response to repeated misconduct. NICS HR will provide support on managing disciplinary action.

- As previously stated, the FAQs are saying something different again. “NICS HR will provide support” but this does not state that LMs should be seeking said support. This FAQ should be amended to “Line Managers should seek advice from NICS HR Employee Relations, before initiating any formal action”.

Q30. Can I request to work from home on one of my set team day(s).

CTUS believe flexibility should be in place for staff needing to work remotely at short notice. Transport and weather issues are examples where staff should be able to work remotely with the agreement of the line manager rather than resorting to annual leave etc.

We restate that it is imperative that Disability and Reasonable Adjustments remain separate considerations under the legal duty that is laid out in legislation.

In conclusion, CTUS have laid out our position and as always will meet to consult on the detail provided.