

Agreement concerning mobile working and teleworking

from 10th february 2023

The University of Oldenburg, represented by the Presidential Board,- hereinafter referred to as the "University" - and the Staff Council of the University of Oldenburg, represented by the Chairperson, - hereinafter referred to as the "Staff Council" - have concluded the following agreement on 11 January 2023 in accordance with Section 78 of the Lower Saxony Staff Representation Act:

1. Preamble

This agreement regulates mobile work and teleworking for employees of the University of Oldenburg, and thus takes into account the increasing need for greater autonomy, mobility and flexibility. It implements the agreement pursuant to Section 81 Lower Saxony Staff Representation Act on teleworking and mobile working in Lower Saxony's regional administration (Vereinbarung gemäß § 81 NPersVG über Telearbeit und mobile Arbeit in der niedersächsischen Landesverwaltung) (Bek. D. MI dated 01 June 2021 – Z5.12-03082-02-01). It draws on experience with mobile working and teleworking that was gained through application of agreements on alternative workstations during the coronavirus pandemic and expressed in the first staff survey from 2021.

The purpose of mobile working and teleworking is to achieve the following:

- a) increasing the attractiveness of the university as an employer for the recruitment of junior researchers and personnel,
- b) , improving the ability to balance a career with child care, caring, severe disability and other personal circumstances,
- c) enabling greater flexibility and greater autonomy by self-determined working and thus achieving an increase in motivation and cost effectiveness,
- d) improving a results-oriented leadership,
- e) , an ecological effect through reduction of commuting and associated Contribution to climate protection.

This agreement creates the necessary organisational and legal framework for teleworking and mobile working to be used effectively, safely and without stress, and for functionality and quality of service to be maintained and optimised.

The university and staff council see the introduction of mobile working and proportionate increase in both alternative workstations as a far-reaching change in our working environment, which has altered drastically as a result of the pandemic. They have agreed to continue evaluating and developing these forms of work..

2. Scope of application

- (1) This agreement applies to the staff of the University of Oldenburg. Staff here denotes all employees covered by collective agreements and the civil servants, with the exception of professors..
- (2) This agreement does not apply to staff who are in training (trainees and civil servants in traineeship (subject to revocation).

3. Voluntary nature

Participation in mobile working and teleworking is voluntary, and can only be requested by the staff member, not ordered by the superior.

4. Prohibition of discrimination and protective provisions

(1) Undertaking mobile working and teleworking must not be to the detriment of the professional career of the staff member. Suitable measures must be taken to ensure that work evaluations and the issuing of references are possible at all times for overall performance, i.e. including work done as mobile working or teleworking. It is not however permitted to monitor conduct or performance via the technical systems used for mobile working or teleworking. Participation in training and professional development must continue to be guaranteed..

(2) Both the management in question and the staff members who undertake mobile working or teleworking must ensure that the internal flow of information necessary for business is guaranteed.

5. Regulations

(1) The regulations of the official work must be fully respected in mobile working and teleworking, and must where relevant be applied

(2) The rights of staff representation are unaffected. The provisions of the NPersVG must be observed, in particular::

- Section 60 Right to information,
- Section 64 Scope of co-determination,
- Section 65 (1)(26), (2)(20) Co-determination of personnel-related measures,
- Section 67 (1)(10) Co-determination of organisational measures,
- Section 77 Occupational health and safety, and
- Section 78 Agreements.

(3) It must in particular be considered that the introduction of teleworking and mobile working also has collective effects on university bodies and on staff members who are indirectly affected by teleworking and mobile working.

6. Definitions of mobile working and teleworking

6.1 Mobile working

(1) Mobile working denotes official work undertaken by staff members for up to 30% of their individual weekly work hours in a calendar half-year based on a written agreement and by arrangement with their manager. Mobile working takes place at a site outside the university, using IT devices belonging to the federal state.

(2) The upper limit as defined in (1) may be exceeded in the case of staff members with severe disabilities and those with equivalent status as well as in individual cases within the framework of reintegration management.

6.2 Teleworking

Teleworking is the case when the staff members undertake their official work at home for part of their weekly work hours for a fixed period on the basis of a written agreement with the university, using IT devices belonging to the federal state. Teleworking may be arranged for up to 80% of the normal weekly work hours.

7. Requirements for participation in mobile working and teleworking

7.1 General requirements for participation in mobile working and teleworking

Staff members' participation in mobile working and teleworking requires the occupation to be suitable for this, for there to be no conflicting official interests, and for the staff members to receive training in security and occupational health and safety at work (Section 12 ArbSchG [occupational safety legislation]) before the start of mobile working.

7.1.1. Availability

(1) Availability while mobile working and teleworking must be guaranteed to be equivalent to when working in the office. In particular, availability by telephone via the official direct number must be ensured.

(2) Staff who are mobile working and teleworking must notify their communication hours..

(3) Teleworking staff members may only refuse to attend the university when additionally urgently required if there are important reasons. In these cases there must not be any work/employment law consequences for refusal..

7.1.2. Suitability of the occupation

The occupation is suitable for mobile working and/or teleworking if there are no or only minor restrictions on efficiency and cooperation when undertaking tasks in mobile working or teleworking, and all the relevant official provisions can be complied with in full.

7.1.3. No conflicting official interests

Official interests are: the proper and trouble-free completion of tasks, and therefore the protection of the functioning of the administration. They include in particular human resources, organisational and specialist aspects..

7.1.4. Discretionary decisions

If the occupation is suitable for undertaking as mobile working or teleworking, and there are no conflicting official interests, the final decision on approval of mobile working or teleworking is discretionary. This discretionary judgment applies in particular to the interests of applicants with severe disabilities in balancing work and family and health circumstances..

7.1.5. Organisational adjustments

The status of the work organisation or developments that are foreseeable at the time of the application are material to determining the suitability of occupations. Optimising the work organisation with the aim of offering suitable occupations for mobile working or teleworking is permitted, but cannot be demanded. The university and staff council are available to advise on potential organisational adjustments in order to enable mobile working and teleworking.

7.2 Special requirements for mobile working

Staff members must discuss and agree the tasks to be completed within the framework of mobile working with their manager. Staff who are mobile working are in principle not bound to a specific workstation, and may select their workstation flexibly. They are however at all times responsible for ensuring that the work environment conforms to official requirements. In particular, staff must ensure they maintain availability and confidentiality, as well as fulfilling requirements for cooperation, efficient performance of tasks, health and safety, and data protection and information security provisions at all times..

7.3 Special requirements for teleworking

Participation in teleworking also requires that the domestic environment is suitable for establishing a teleworking workstation in accordance with the general requirements for ergonomics, safety in the workplace, data protection and information security, and, as far as necessary, the staff members shall by prior appointment allow access to their private sphere (home office) by the university, staff representatives, the university Health and Safety Unit, the representative for employees with disabilities, the data protection officer and the university's information security unit.

7.4 Potential for combining mobile working and teleworkingt

(1) Mobile working and teleworking can be combined. Mobile working for up to a maximum 30% of normal work hours in the calendar half-year shall be considered. Mobile working and teleworking together are limited to the teleworking threshold of 80% of normal weekly work hours; consequently, at least 20% of normal weekly work hours must be fulfilled at the place of employment.

(2) The share of mobile working may in this case either be used to make teleworking more flexible with regard to location, or for the shares of teleworking and mobile working to complement one another.

8. Process for approval of mobile working and teleworking

8.1 Application for mobile working and/or teleworking

(1) Staff members must apply to the university with the positive or negative opinion of their manager to participate in mobile working and teleworking. The application is sent in through official channels.

(2) The responsible manager gives their opinion for or against as soon as the application is ready for a decision. If the decision cannot be taken within four weeks of the application being made, then the application must be passed on to the university without an opinion, setting out the status of the decision.

(3) Combinations of mobile working and teleworking may be made together or with reference to one another.

8.2 Rights of participation in the application procedure for mobile working and/or teleworking

The university shall inform the staff council, the equal opportunities officer, and where relevant the representative for employees with disabilities in writing about the approval of applications to participate in mobile working and teleworking..

8.3 Approval of mobile working and/or teleworking

(1) The university approves the application to participate in mobile working and/or teleworking for a limited period in writing, or rejects it in writing, setting out reasons. In the event that mobile working and/or teleworking is approved, it shall conclude a written agreement about the performance of mobile working and/or teleworking with the staff members.

(2) The approval of mobile working and/or teleworking does not on its own confer eligibility to relocate face-to-face teaching into digital formats; this must be separately agreed with the deans of studies.

8.4. Arbitration

(1) If agreement is not unanimously reached on an application for mobile working and/or teleworking in full or pro rata between employees, superiors and the university, then a board of arbitration will be appointed, which will consist of two representatives of the university and the staff council. The board of arbitration will endeavour to reach agreement before the decision of the university regarding approval.

(2) If no agreement can be reached, the staff council shall be involved in accordance with Section 65 (1)(26) and Section 65 (2)(20) NPersVG respectively..

9. Content of the agreement on performing mobile working and teleworking

9.1 Mobile working

The agreement on performance of mobile working should in particular include provisions on the following points:

- communication hours in the context of the applicable working time arrangements concerning availability and unavailability during mobile working,
- if necessary, determining times of mobile working or face-to-face work,
- end of mobile working,
- technical equipment for mobile working,
- data protection and information security
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9.2 Teleworking

The agreement on performance of teleworking should in particular include provisions on the following points:

- division of work hours between home office and university,
- communication hours ensuring availability while working in the home office,
- minimum duration and termination of teleworking,
- equipment of the teleworking workstation,
- urgently required attendance at the university on agreed teleworking days,
- data protection and information security.

10. Equipment for mobile working and the teleworking space

10.1. Mobile working

For access to official data (inc. network storage, email, eAkte), the staff members will be provided by the university with the mobile information and communication technology necessary to fulfil the official work and comply with data protection and information security requirements..

10.02. Teleworking

(1) The university will equip and set up the teleworking workstations with the necessary equipment in accordance with the requirements of the Arbeitsstättenverordnung [Workplace Ordinance] and in agreement with the teleworkers. On request from the staff members their own furniture may also be used..

(2) For access to official data (inc. network storage, email, eAkte) the staff members will be provided with the necessary information and communication technology. The staff members shall provide suitable Internet access at their own expense. The same applies to a telephone line, if this is not supplied by the university for other reasons (e.g. work mobile). The options of services provided within the regional administration, e.g. the option of using an official telephone number via a private telephone, may be used for telecommunications. Rent, heating, electricity and other incidental expenses as well as routine costs of telecommunications will not be reimbursed.

(3) Before commencing teleworking, the home office will be assessed to see that it meets ergonomic, safety-related and data-protection related regulations as well as the requirements for information security. The university and the staff members may agree on assessment by a binding and appropriate declaration from the staff members. or Aufnahme der Telearbeit erfolgt eine Abnahme der Arbeitsstätte im Privatbereich bezüglich der Einhaltung ergonomischer, sicherheitstechnischer und datenschutzrechtlicher Vorschriften sowie der Anforderungen an die Informationssicherheit. Im Einvernehmen zwischen der Dienststelle und den Beschäftigten kann die Abnahme auch durch eine verbindliche und geeignete Selbstauskunft der Beschäftigten erfolgen.

(4) The university ensures the support, maintenance of work equipment provided in accordance with (1), and compliance with statutory standards for the equipment of the teleworking workstation.

10.3. Costs

The costs of the equipment are borne by the relevant cost centre. All equipment must meet official standards, and on termination of mobile working and/or teleworking must be able to be used in the workstation at the place of employment

10.4. Room use

(1) If several staff members from one organisational unit take part in teleworking and/or mobile working, they may for their work at the university be provided with a suitable shared office in their working environment, insofar as agreement of attendance times at the university appears possible and reasonable.

(2) Since new duties to provide equipment for mobile working and teleworking overlap with the existing obligation to retain equipped workstations at the place of employment, there may be limits on in particular the supply of teleworking workstations. Demand for equipment for mobile working and teleworking at the same time as reduced use of the workstations at the place of employment will therefore continue to be observed, and models for room usage will be adapted to the changed demand once it stabilises sufficiently

11. Termination of mobile working and teleworking

(1) Mobile working and teleworking are approved for limited periods. Renewal requires a new application.

(2) The university may for important reasons and allowing a reasonable deadline revoke the approval for mobile working and teleworking in writing. The staff council, equal opportunities officer and where relevant the representative for employees with disabilities will be heard.

(3) Staff members may terminate their participation in mobile working at any time without giving reasons. This results in the approval lapsing. It should be noted that it is not necessary to fix set times for mobile working, therefore mobile working may be approved within a certain scope, but does not have to be made use of or regularly used. Simply failing to make use of the option of mobile working does not result in its termination. If mobile working is not used, and there is an official interest in establishing whether mobile working will still be used within the period of the approval, the staff members may be asked to give their opinion on this

(4) Staff members may apply to the university in writing to have teleworking terminated early with the positive or negative opinion of their manager. The university shall inform the staff council, the equal opportunities officer, and where relevant the representative for employees with disabilities in writing about its intention to approve applications to terminate mobile working and teleworking early

12. Data protection and information security

Data protection and information security are governed by separate Instructions concerning data protection and information security for mobile working and teleworking; acknowledgement and compliance with this are requirements for participation in mobile working and teleworking.

13. Accident prevention, liability

(1) For accidents at work and/or occupational accidents in the home office and while mobile working as well as for accidents on the way to the university and from the university to home, the statutory regulations on accident prevention apply.

(2) In the event of damage, loss and theft of the work equipment provided including the loss of data and/or files, the relevant legal, collective agreement and civil service rules apply. The staff members, family members or visitors are only liable for losses in the event of deliberate or grossly negligent violation of their obligations.

14. Qualification and exchange of ideas

(1) The staff members and their managers will be given information about mobile working and teleworking in the course of the application process. Acknowledgement is a requirement for participation in mobile working and teleworking.

(2) The offer of training for participants in mobile working and teleworking is continuously adapted and expanded. The demand for qualifications appropriate to specific target groups is determined by regular evaluation of courses, reports of requirements to Division 1, Dept. 1.4 Professional Development, and via exchange with the work group for training and further education. Further education will also incorporate offerings designed to promote the exchange of experiences

15. Evaluation

The evaluation of this agreement will take place two years after entry into force with the involvement of staff members. This will examine in particular whether the rules laid down succeed in ensuring the official functioning of the university as well as increasing the flexibility of work as regards time and location, in line with the preamble; this will take especial note of the results of the staff surveys.

16. Severability

If one or more provisions of this agreement is invalid, this shall not affect the validity of the remaining provisions. The negotiating parties shall without delay agree a date to renegotiate the invalid passage.

16. Entry into force

This agreement shall enter into force on 01 April 2023. On this agreement entering into force, the agreement on teleworking dated 01/01/2006 shall be annulled. The approvals previously issued on the basis of the old agreement shall remain in effect without change.