

Overview	Legal Change	Action required
<p>Privacy Employer right to access the private emails of their employees.</p>	<p>Can employers can access employee private emails?</p> <p>The answer depends on whether employees have been granted (expressly or by company practice) permission to use their business email accounts for private purposes.</p> <p>In the recently published view of one German State Data Authority (Baden-Württemberg), if employees are permitted to use business email for private use the employer becomes a 'service provider' under German Telecommunications law. If this is correct employers cannot access the private emails of employees and former employees without their express consent.</p> <p>However some court decisions take a different view. They say the employer does not become a service provider and German Telecoms law does not apply.</p> <p>While the position may be uncertain, GDPR in any event continues to apply and it is wise to have a clear works policy on the private use of IT infrastructure and the rights of employers to access those private emails in specified circumstances.</p>	<p>Review your employment contracts and policies to ensure that your chosen policy on private email use (whether permitted or forbidden) is clearly stated.</p> <p>If you forbid private use, you must also show how you actively enforce that policy by internal publicity, training and monitoring. Failure to do this risks your being treated as having given implied consent to private use.</p>
<p>Working Time Time spent travelling on business counts as working time.</p>	<p>The Federal Labour Court recently decided that travel time spent exclusively for a business related purpose in the employer's interest should be remunerated as normal working time whether the employee has been working or resting.</p> <p>However, this is not a general rule and will not override what has been agreed by contractual or collective agreement. For now at least, employers have the chance to agree a different level of remuneration for time spent in transit on business.</p>	<p>Make sure your employment contracts and collective agreements clearly apply your preferred (or at least agreed) policy on the remuneration of travel time.</p>
<p>Homeworking Employer's right to require an employee to work from home.</p>	<p>A recent court decision confirmed that an employer cannot unilaterally require an employee to work from home.</p> <p>If you require homeworking flexibility from employees you must make sure the employment contract contains clear and legally compliant terms permitting this together with clear rules on the place(s) of work and working hours.</p>	<p>Make sure your employment contracts clearly apply your preferred (or at least agreed) policy on homeworking.</p>

This is a high level general update only. Legal advice should be obtained on specific circumstances.