Checking your employment rights

Your 'employment status' is your legal status at work.

It can be determined by:

- the type of employment contract you have
- the way you get paid
- who is responsible for paying your tax
- your rights and responsibilities and those of your employer

There are 3 main types of employment status under the law:

- employee
- worker
- self-employed

Both employers and the people doing work for them need to know their rights and responsibilities, so it's important to be sure of employment status.

Your employment status is important as it affects your legal rights and what you’re entitled to.

1. Employee

You're classed as an employee if you:

- have an employment contract from your employer, formed when you accept the job
- tend to be provided regular work by your employer
- are employed to do the work personally
- must do the work

As an employee you have employment rights including:

- written terms (a 'written statement of employment particulars') outlining your job rights and responsibilities, as a minimum
- sick, holiday and parental leave pay
- being able to claim redundancy and unfair dismissal after 2 years' service
Worker

You could be classed as a worker if your employment is more casual.

You usually would:

- have a ‘contract for services’ (to do work or provide a service for a payment or reward), which can be verbal or written
- be employed to do the work personally
- have very little obligation to receive or do work (for example, a zero-hours contract where you’re offered work on an ‘as and when’ basis) but should do work you’ve agreed to

As a worker, you have employment rights including:

- written terms outlining your job rights and responsibilities
- National Minimum Wage
- paid holiday
- payslips
- protection against unlawful discrimination
- protection for whistleblowing
- not being treated unfairly if you work part time

Self-employed

You’re usually classed as self-employed if you:

- are responsible for how and when you work
- are the owner of a company or are a freelancer
- invoice for your pay
- get contracts to provide services for clients
- are able to send someone else to do the work for you, if appropriate
- are able to work for different clients and charge different fees
- do not get paid holiday or sick leave

If you’re self-employed you have some employment rights including:

- protection for your health and safety on a client’s premises
- protection against discrimination

Contractors and freelancers

If you’re self-employed and get work through an agency, you might be given a contract for services and be called a contractor.

In this case you might have worker employment status and rights for the duration of the contract, so it’s a good idea to check.
It's important to check the difference between being employed and being self-employed so both sides know their legal rights and responsibilities.

When your employment status is not clear

You might have worker or employee status, depending on the work you do, your contract and the way you get paid.

For example, if you're:

- an agency worker
- an apprentice
- a director
- an employee shareholder
- on a fixed-term or rolling contract
- an officeholder
- peripatetic (have no fixed work base)
- a piece worker
- working in the ‘gig economy’ (for example you work through online platforms)
- on a work experience placement (also ‘internship’)
- on a zero-hours contract
- a volunteer

If you’re in one of these types of work, you might think you have certain rights, but it’s a good idea to look at what actually indicates your legal employment status.

If you’re still not sure, call the Acas helpline and we’ll talk through your situation. We can explain how the law relates to your situation, but cannot give an opinion on your employment status.

To help work out your employment status, check if:

- you have an employment contract or written terms (a 'written statement of employment particulars')
- your situation matches with one of the types of employment status

You can also think about the ways you carry out your day-to-day work and what your entitlements are.

Some things are more important than others, for example:

- whether you have a uniform or use your own tools and equipment
- who tells you what to do or how to do your work
- whether you’re on the payroll and get payslips
- whether you still get paid if you take time off
• whether you go to the same place to work each day

You can then make a list of these points and have an informal chat with your employer or send them in an email.

If you’re still not sure or you and your employer do not agree on your employment status, you can call the Acas helpline. We can talk through your options and the law, but cannot give an opinion on your employment status.

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