

Key Considerations When Reviewing Employment Status

Looking at how the relationship operates in practice, rather than relying solely on the contract, can help employers identify whether an individual has been classified appropriately.



The Written Agreement

Review the contract or consultancy agreement and the relationship it is intended to create. The documentation is important, but it must reflect what actually happens in practice.



The Reality of the Relationship

Consider whether the day-to-day working arrangements match the written terms. Government guidance confirms that businesses cannot simply choose someone's employment status by giving the relationship a particular label.



Control

Consider how much control the organisation has over what work is performed and when, where and how it is completed. A high degree of control may be relevant when assessing status.



Personal Service and Substitution

Establish whether the individual is expected to perform the work personally or has a genuine ability to provide somebody else to undertake it.



Mutual Commitments

Consider whether the organisation is expected to provide ongoing work and whether the individual is expected to accept it. The practical expectations between the parties may be relevant to the overall assessment.

-  **Integration into the Business**
Think about whether the individual operates independently or has become integrated into the organisation. Matters such as management responsibility, internal systems and working alongside employees may be relevant.
-  **Financial Arrangements**
Review how the individual is paid and whether they bear genuine financial risk. Invoicing through a business does not, on its own, determine employment status.
-  **Benefits and Working Practices**
Consider holiday arrangements, sick pay, equipment, expenses and other benefits or practices. These should be consistent with the intended working relationship.
-  **Changes Over Time**
Review long-standing arrangements periodically. A relationship that began as a short-term consultancy or project may develop into a more regular arrangement with different characteristics.
-  **Employment and Tax Status**
Remember that employment law status and tax status are separate questions and may not always produce the same result. Employers should consider whether specialist tax advice is also required.



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