

# Employment status

## 1 . Types of employment status

'Employment status' is someone's legal status at work. It affects:

- the employment rights they're entitled to
- both theirs and their employer's responsibilities

There are 3 main types of employment status:

- employee
- worker
- self-employed

These are all defined by law (Employment Rights Act 1996).

Someone's employment status is based on:

- their employment contract or 'written statement of employment particulars'
- what was agreed when they were offered the job
- the way the organisation and the individual work together

## How to work out employment status

To help work out someone's employment status, check if their work situation suggests they are:

- [an employee](#)
- [a worker](#)
- [self-employed](#)

It can also be helpful to check:

- any [employment contract or written statement of employment particulars](#)
- if the employment status in the contract or written statement reflects the actual work situation

## When employment status might not be clear

In some circumstances, it might not be clear whether someone is legally classed as an employee or worker. It's particularly important to work out the employment status of these people.

For example, if they're:

- zero-hours staff

- bank staff
- working in the 'gig economy' – for example working through online platforms
- on a work experience placement or internship
- on a fixed-term or rolling contract
- a piece worker – when someone is paid for each piece of work they do
- peripatetic – someone who has no fixed workplace or works in different locations
- an employee shareholder
- a locum – someone who temporarily takes on a role in specific circumstances, for example a doctor

Some people might have different employment statuses in different roles. This is usually when they have more than one job, including doing different jobs for the same employer. They might be classed as an employee in one job and a worker in another.

## Agency workers

An agency worker could be an employee, worker or self-employed.

[Find out more about employment rights as an agency worker](#)

## Employment status for tax purposes

Employment status for tax purposes is different from employment status for employment rights purposes.

If someone is considered self-employed for tax purposes, this does not necessarily mean their employment status is self-employed.

To check if someone is employed or self-employed for tax purposes, use [HMRC's Check Employment Status for Tax Tool](#).

## Directors, office holders and volunteers

Company directors, office holders and volunteers do not have the same rights as employees and workers.

Find more information on GOV.UK about:

- [directors](#)
- [office holders](#)
- [volunteers](#)

## Get more advice and support

If you have any questions about employment status, [contact the Acas helpline](#).

You can also read [GOV.UK guidance on employment status and employment rights](#).

## 2. Employee

People with 'employee' employment status have:

- more employment rights than workers or self-employed people
- more obligations towards their employer

## What makes someone an employee

Someone is likely to be legally classed as an employee if most of these things apply:

- they're required to work regularly unless they're on leave
- they can usually expect work to be consistently available
- they cannot unreasonably refuse to do the work
- they get statutory paid holiday – they might also have additional contractual holiday entitlement
- they're subject to the employer's discipline and grievance procedures
- they need to give notice to their employer if they want to take maternity, paternity or adoption leave
- they cannot get someone else to do their job
- their employer decides how, when and where they do their work
- their employer provides the materials, tools and equipment for their work

If most of these do not apply, someone is more likely to be a [worker](#) or [self-employed](#).

## Employment rights

Employees' rights include:

- a [written statement of employment particulars](#) outlining their job rights and responsibilities
- [National Minimum Wage](#)
- [paid holiday](#)
- [payslips](#)
- protection for [whistleblowing](#)
- protection against [discrimination](#)
- protection from [less favourable treatment for working part time](#)
- making [statutory flexible working requests](#)

As long as they meet any eligibility criteria, they're also entitled to:

- [statutory sick pay \(SSP\)](#)
- [ordinary parental leave](#)
- [shared parental leave and pay](#)
- [maternity, paternity and adoption leave and pay](#)
- [parental bereavement leave and pay](#)
- [time off for dependants](#)
- time off for public duties
- [redundancy pay](#) after 2 years' continuous service, if their role becomes redundant
- claim [unfair dismissal or automatically unfair dismissal](#)
- get the minimum [notice period](#) if they're dismissed or made redundant
- protection against dismissal or detriment for taking action over a health and safety issue

## Detriment related to health and safety

An employer must not cause an employee 'detriment' because the employee:

- reasonably believes being at work or doing certain tasks would put them in serious and imminent danger
- takes reasonable steps over a health and safety issue, for example complaining about unsafe working conditions
- informs their employer about a health and safety issue in an appropriate way

Detriment means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

Examples of detriment could be:

- an employer reduces someone's hours
- experiencing [bullying](#)
- experiencing [harassment](#)
- an employer turns down someone's training requests without good reason
- someone is overlooked for promotions or development opportunities

An employee could have a case for [automatically unfair dismissal](#) if they're dismissed in these circumstances. They do not need to have worked for their employer for 2 years to make this claim.

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## 3. Worker

People with 'worker' employment status have some employment rights, but not as many as employees.

### What makes someone a worker

Someone is likely to be legally classed as a worker if most of these things apply:

- their work for the organisation is more casual, for example work is less structured or they do not have a regular working pattern
- they're usually required to personally do the work
- they're not offered regular or guaranteed hours by the employer
- they have very little obligation to make themselves available for work, but should do work they've agreed to
- they're not carrying out work for a client or customer of their own

If most of these do not apply, someone is more likely to be an [employee](#) or [self-employed](#).

Workers are sometimes referred to as 'limb (b)' workers. This term comes from the Employment Rights Act 1996.

## Employment rights

Workers' rights include:

- a [written statement of employment particulars](#) outlining their job rights and responsibilities
- [National Minimum Wage](#)
- [paid holiday](#)
- [payslips](#)

- protection for [whistleblowing](#)
- protection against [discrimination](#)
- protection from [less favourable treatment for working part time](#)

Workers are not usually entitled to:

- a minimum [notice period](#) if their employment is ending, for example if their employer is dismissing them
- protection against [unfair dismissal](#)
- make [statutory flexible working requests](#)
- [time off for dependants](#)
- statutory [redundancy pay](#)

## Statutory pay and leave

Depending on their National Insurance contributions, workers might also be entitled to:

- [statutory sick pay \(SSP\)](#)
- [shared parental pay](#)
- [parental bereavement pay](#)
- [maternity, paternity and adoption pay](#)

Workers are not entitled to:

- shared parental leave
- parental bereavement leave
- maternity, paternity and adoption leave

This is because they do not have to make themselves available for work. They can choose to take time off when they want to.

For example, if an agency worker meets the definition of 'worker' employment status, they would not qualify for statutory maternity leave. However, they can tell their employer they're not available to work if they want to take time off while pregnant or after giving birth.

## Detriment related to health and safety

An employer must not cause a worker 'detriment' because the worker:

- reasonably believes being at work or doing certain tasks would put them in serious and imminent danger
- takes reasonable steps over a health and safety issue, for example complaining about unsafe working conditions
- informs their employer about a health and safety issue in an appropriate way

Detriment means someone experiences one or both of the following:

- being treated worse than before
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Examples of detriment could be:

- an employer reduces someone's hours
- experiencing [bullying](#)
- experiencing [harassment](#)

- an employer turns down someone's training requests without good reason
- someone is overlooked for promotions or development opportunities

## Detriment and dismissal

Although a worker cannot claim unfair dismissal, being dismissed is a form of detriment.

Instead of unfair dismissal, a worker could make an employment tribunal claim for suffering detriment. However, they could only recover certain losses caused by their employer.

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Related content

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## 4. Self-employment

A person is usually self-employed if they are their own boss.

Self-employed status is not defined in employment law. It's a category used by HM Revenue and Customs (HMRC) for tax purposes.

Self-employed people have very few employment rights.

## What makes someone self-employed

Someone is likely to be self-employed if they:

- are responsible for how and when they work
- are the owner of a company or a freelancer
- invoice for their pay instead of getting a wage
- get contracts to provide services for clients
- are able to work for different clients and charge different fees
- are able to send someone else to do the work for them

## When someone might not be genuinely self-employed

Someone may not be genuinely self-employed if their working relationship is more similar to an [employee](#) or a [worker](#).

For example:

- they cannot choose when or where they work
- they're told how much holiday they can take and need to get permission to take it
- they're given instructions on how to do their work
- their work equipment is provided
- they get payslips instead of being paid through invoices

If someone is told by an organisation that they're self-employed, this does not always mean they are. Some employers tell people who work for them that they are self-employed when in reality they're not.

This could be because the employer does not clearly understand employment status.

In other cases, this could be a deliberate choice so the employer can:

- control how and when the work is done
- avoid giving people the legal rights of employees or workers, for example paid holiday

## Employment rights

Self-employed people have limited employment rights. They have:

- protection for their health and safety on a client's premises
- protection against [discrimination](#)

They do not have the rights that employees or workers have. For example, they do not get sick pay when they're not well enough to work.

The benefits of being self-employed include:

- more control over how, when and where to work
- potential to earn more money
- a more flexible lifestyle

## Contractors and freelancers

Someone might be given a contract for services and be called a contractor or freelancer if they're:

- self-employed
- a worker or employee [getting work through an agency](#)

Depending on the working relationship, for the duration of the contract they could be:

- self-employed
- a [worker](#)
- an [employee](#)

The client and the contractor or freelancer should:

- be clear about employment status
- reflect the nature of the working relationship and the employment status of the contractor or freelancer clearly in the contract
- make sure what happens in practice matches the contract – if the working relationship changes, they should discuss this and agree how to update the contract

## Tax rules for contractors

'IR35' rules might apply to someone who is a contractor. These rules make sure contractors pay the same Income Tax and National Insurance as an employee would. Read [GOV.UK guidance on understanding off-payroll working \(IR35\)](#).

Self-employed contractors and sub-contractors working in the construction industry also have responsibilities under the [Construction Industry Scheme \(CIS\)](#) for tax purposes.

## Raising a work problem

If someone who is self-employed has a work problem, they can raise this informally with the client they're doing work for.

If they cannot resolve the issue, they might want to take more formal steps.

Self-employed people cannot usually make a claim to an employment tribunal. However, there are other courts they can use.

For example, if an invoice has not been paid, they can go to county court in England and Wales or sheriff court in Scotland.

Find out how to make a court claim for money in:

- [England and Wales on GOV.UK](#)
- [Scotland on the Scottish government website](#)

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