

Checking your employment rights

Your 'employment status' is your legal status at work. It affects what employment rights you're entitled to.

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

- worker
- employee
- 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.

You might have something in writing from the organisation you work for that suggests what your employment status is. However the way you and the organisation work together in practice is ultimately what will determine your employment status for employment rights purposes.

Your employment status can be defined by:

- how dependent you are on the organisation for work
- how much control the organisation has over you and your work
- whether you're expected to carry out the work yourself

Your employment status is important as it affects your legal rights, what you're entitled to and what can be expected of you.

1. Employment status for tax purposes

Your employment status for tax purposes is not the same as your employment status for employment rights purposes. You can use [HMRC's employment status for tax tool](#) to check your employment status for tax purposes.

Worker

You're more likely to be classed as a worker if:

- your work for the organisation is more casual, for example your work is less structured or not regular
- you're employed to do the work yourself
- you're not offered regular or guaranteed hours by your employer
- you have very little obligation to make yourself available for work, but should do work you've agreed to

As a worker, you have employment rights including:

- [written terms](#) (a 'written statement of employment particulars') outlining your job rights and responsibilities
- [National Minimum Wage](#)
- [paid holiday](#)
- [payslips](#)
- protection for '[whistleblowing](#)'
- protection against unlawful [discrimination](#)
- not being treated unfairly if you work part time

You may also be entitled to [Statutory Sick Pay \(SSP\)](#), [Shared Parental Pay](#), [parental bereavement pay](#) and [maternity, paternity and adoption pay](#). As a worker, you are not entitled to sick leave, maternity or other types of parental leave, but you can take time off because you do not have to make yourself available for work.

As a worker, from 31 May 2021 you also have protection against experiencing any 'detriment' if you:

- reasonably believe being at work or doing certain tasks would put you in serious and imminent danger

- take action over a health and safety issue, for example complaining about unsafe working conditions

Detriment means the organisation treats you in a way that leaves you worse off, for example:

- your hours are reduced
- you experience [bullying or harassment](#)
- your training requests are turned down without good reason

Workers could include:

- casual workers
- [agency workers](#)
- freelance workers (however depending on your personal working pattern and circumstance you might be classed as a worker or self-employed)
- [zero-hours contract](#) workers (however depending on your personal working pattern and circumstances you might be classed as a worker or an employee)

Employee

You're more likely to be classed as an employee if:

- your employer, manager or supervisor is in charge of your workload and how your work should be done
- you're required to work regularly unless you're on leave
- you can expect work to be consistently available
- you cannot refuse to do the work
- you're employed to do the work yourself

Employees have all the employment rights that workers do, as well as extra rights and responsibilities, including:

- [parental leave and pay](#)
- [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
- being able to claim [unfair dismissal](#) after 2 years' continuous service
- getting the [minimum notice period](#) if dismissed or made redundant
- the right to [flexible working requests](#) after 26 weeks' continuous service
- protection against dismissal or suffering any detriment if taking action over a health and safety issue

As an employee, you also have protection against dismissal or experiencing any 'detriment' if you:

- reasonably believe being at work or doing certain tasks would put you in serious and imminent danger
- take action over a health and safety issue

Self-employed

You're more likely to be 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 instead of getting a wage
- 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

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](#)

You do not have the same employment rights and responsibilities as employees or workers.

Contractors and freelancers

If you're self-employed, or a worker or employee getting work through an agency, you might be given a contract for services and be called a contractor.

In this case you might have self-employed, worker or employee employment status and rights for the duration of the contract, so it's a good idea to check.

If you're a self-employed contractor or sub-contractor working in the construction industry you also have responsibilities under the [Construction Industry Scheme \(CIS\)](#) for tax purposes.

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

It might not be clear from the type of agreement you have or the nature of your working relationship whether you have worker or employee employment status.

For example, if you're:

- zero-hours staff
- bank staff
- working in the 'gig economy' (for example you work through online platforms)
- on a work experience placement or internship
- on a fixed-term or rolling contract
- a piece worker
- peripatetic (have no fixed work base)
- an employee shareholder

If you're in one of these types of work, it's a good idea to check if your situation matches with one of the 3 types of employment status. This includes looking at how any written agreement or documents provided by the organisation compares to the reality of your working relationship in practice.

For example, you might have a written contract which says you're self-employed, but in reality have less control over how, when and whether you work, meaning you're more likely to be a worker or an employee.

If you're still not sure, [contact 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.

Directors, officeholders and volunteers

If you're a director, officeholder or volunteer you might also have a different set of employment rights.

Find more information on GOV.UK if you're:

- a [director](#)
- an [officeholder](#)
- a [volunteer](#)

To help work out your employment status, check if:

- you have an [employment contract](#) or [written terms](#) (a 'written statement of employment particulars')
- the employment status in your written terms reflects your actual work situation
- 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 and responsibilities are.

Some things you can consider are:

- whether you have a uniform or are required to use your own tools
- 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 decide how much to charge for your work
- whether you can send someone else to carry out the work
- whether you can decide if you work or not

- whether you have set up your own organisation to hire out your service
- whether you could face a disciplinary process if something goes wrong

Only a court or [employment tribunal](#) can make a final decision on employment status for employment rights purposes. They'll do this by looking at how the employment relationship between you and your employer works in practice.

2. Raising an issue about your employment status

You can make a list of these points and [have an informal chat](#) or send them in an email to your employer. This gives you and your employer an opportunity to talk through your concerns and try and resolve any issues without the need for a formal procedure.

If you're still not sure, or you and your employer do not agree on your employment status, you can [contact the Acas helpline](#). We can talk through the law and your options, but cannot give an opinion on your employment status.

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