

DETERMINING EMPLOYMENT STATUS

HR GUIDE



Hill HR Consultancy Limited

Contact Info

www.hillhr.co.uk

claire.hill@hillhr.co.uk

07483 253984



This guide provides an overview of the key employment indicators that may be used to determine whether an individual is employed, or self-employed.

Factor	Self Employed	Employee
Type of Contract	Contract for Services. They run their own business.	Contract of Employment (Contract of Service). This can be permanent, fixed term or temporary.
Personal Service	Will provide own services but may also sub-contract work to others, bring in outside assistance or provide a substitute.	Only provides services themselves.
Mutuality of obligation	Is free to accept or turn down work and the client is under no obligation to offer any work or any further work.	The employer is obliged to offer work, and the employee is obliged to do as the employer legally requests.
Right of control	Likely to be in control of most aspects of the work done.	An employer is likely control "what", "how", "where" and "when" work is done.
Right of substitution	Depending upon the terms within the Contract for Services, may sub-contract work or bring in assistance. Depends on nature of work; an individual may be engaged because of	It is rare for an employee to have the right to send someone else to do their work.

	their personal reputation or skill and so no substitute will be acceptable.	
Provision of own equipment	Will normally supply all or most small tools and bring in or hire in plant.	May sometimes supply own small tools or equipment but on the who the employer will provide all plant and machinery.
Financial risk/ability to profit	Will quote on a job-by-job basis. Is able to make more profit by more efficient working or may incur loss if overruns on time. Required to rectify defects in own time at own expense. Is responsible for their own tax and insurance.	Paid whatever work is done, benefits from the National Living / Minimum Wage and statutory holiday entitlement. An employee will bear little risk unless exceptionally work directly relates to a bonus or commission scheme. Or, if poor work affects appraisal for promotion or other benefits. Employer responsible for tax, NI and pension deductions.
Opportunity to profit	Can profit if work is performed efficiently, or from re-charging and making a profit on materials.	May only profit under a bonus or incentive scheme. However, may benefit from tips, or payments from third parties.
Length of engagement	Generally, a fixed-term or short-term assignment.	Contract is permanent, may be open ended (temporary) or have a fixed end date.
Part and parcel of the organisation	May become "a fixture" in that his work brings him to the company regularly but acquires no additional responsibilities or privileges as a result.	Is capable of being promoted or manages other staff. Part of the work pension or SAYE scheme.
Employment Rights	No employment rights and unlikely to be entitled to any type of benefits. No right to holiday or pay.	Will have employment rights – with full rights as an employee, or some rights as a worker (such as statutory sick, maternity, paternity, adoption, redundancy pay, unfair dismissal, flexible working). Entitled to statutory holiday and pay.
Right to terminate contract	As per terms within the Contract for Services or if other party is in breach.	Would normally give notice under specified contract term or legislation.

