

Contracts

Employed or not?

There is often confusion about whether someone is employed or not:

Common law says that an employee is someone who agrees to be at the services of the employer who must do their work in person and is controlled by the employer.

Given that employees have extensive employment rights (such as the right to claim unfair dismissal and statutory redundancy pay) and there is a heavy cost attached to breaching those rights, it is important that both parties to an agreement know whether or not it is one of employment.

For an employment contract to exist, there must be:

- Contract, written or implied.
- The work must be undertaken personally
- Mutuality (each party being under an obligation to the other)
- Controlled by the employer of the way or circumstances in which the work is done
- Other terms consistent with employment.

Self-employed:

Are in fact, contractors who are running their own businesses; this may be in a very minor way, i.e. gardening services.

They will invoice the parish for the work done, and have no rights to holiday, sick pay etc. They are also responsible for their own tax and NI.

You may have a contract of services in place which sets out the details of the service they provide and the rate charged.

If you have someone who does something like garden maintenance and is paid in cash for this service, some sort of invoice must be submitted by the person providing the service and must be kept for your accounts. This can be something as simple as a duplicate book but must have the name and address of the person you are paying. Honorariums should not be in place.

Contract – what should it include?

- Statement of Terms & Conditions

‘This statement dated [] sets out the main terms and conditions of your employment in accordance with the Employment Rights Act 1996, which [together with your offer letter/staff handbook] form the terms and conditions of your employment with []’.

- Name of employee
- Job Title
- Date employment commences (if it’s a fixed term, include finish date).

- Probationary period i.e. 3 months
- Place of work
- Hours of work (include any variations)
- Remuneration, when paid and how.
- Holidays/ Public Holidays – a total of 5.6 weeks which can include bank holidays, on a pro rata basis.
- Sick Pay – do you just pay Statutory Sick pay or do you have an enhanced policy?
- Sickness absence and reporting
- Pensions
- Confidentiality clause
- Changes to contract
- Grievance procedure
- Disciplinary procedure

Also reference to any other policies you may have in place i.e. Health & Safety/Lone working

Job description

Include the role title and the line manager.

A job description designs the shape of the job and should not be written to fit the person.

Keep it relevant.

Key tasks i.e.

- To manage the day to day running of the parish office

Then refine the duties and responsibilities expected.

The job description will change as the duties develop or others diminish. It will need to be reviewed following an appraisal, but it shouldn't be the document that informs the appraisal meeting.

Appraisal

An appraisal is a two way process, to allow you and the employee to review their progress over a particular period of time, and to set targets for the following [year]. It needs planning as people are often wary of an appraisal but if it's properly managed, it should have a positive outcome and set a firm foundation for future working.

- Find somewhere private for your appraisal meeting, make sure you have sufficient time for this meeting. This is a formal meeting and should be conducted appropriately.

- Invite the employee, giving them sufficient time to prepare. Encourage them to spend some time preparing to aid a constructive conversation. Send them a copy of last year's appraisal (if there is one), their job description and any other relevant documents (PCC Strategy docs).
- Make sure you have prepared too. Advise them that you will be taking notes of the conversation which you will share with them, to create a record of the appraisal.
- At the meeting, cover the targets of the previous year, discuss the progress, what has worked and what hasn't. Did the work has changed, become unnecessary, or need to be rolled to the coming year?
- Remember to praise good work and to fully discuss any areas of difficulty.
- Any training needs?
- What are the employee's aspirations? Make sure you give them ample opportunity to speak.

After the meeting

- Add your notes to the appraisal document
- Send it to the employee, ask them to sign their acceptance or discuss anything they feel needs clarification.
- Once agreed, this becomes a working document for the following year. Don't file it away, revisit it with your employee in a less formal setting, to ensure that targets are being achieved and that any commitment from management (i.e. training) is put in place.

Pensions

All employers will have to provide a work place pension for their staff, assuming they are eligible. Small employers will have to comply by April 2017, if you run PAYE you will be contacted by the pension regulator with plenty of time and information on how the process works.

The [pensions regulator website](#) has lots of helpful information and the only information you will need to access it is your PAYE reference.