



what you need to know to start and grow your business

employees & other staff

How can I staff my business?

There are different ways people can work for you, with differing degrees of statutory protection. In short, the more control you have, the greater the cost and level of responsibility for your business. The lines are not always clear, but in general:

Employee	Worker	Self employed	Volunteer
<ul style="list-style-type: none"> • Employment contract • Permanent (full or part time) or fixed term • Employer must provide work • Employee must accept the work • Employee must do the work personally (can't send) • Some employer control over how work is done 	<ul style="list-style-type: none"> • Contract for services but your business is not a client/customer of the contractor • Employer must provide work for duration of arrangement • Worker must turn up to do the work • Worker only has limited right to send substitute to do the work 	<ul style="list-style-type: none"> • Contract for services and your business is a client/customer of the contractor • Contractor can send someone else to do the work • Contractor can decide what/where/when/how to do the work • Contractor free to work for other client/customers 	<ul style="list-style-type: none"> • Volunteering agreement rather than contract for services • Usually work for charities or voluntary organisations
<p>Agency staff</p> <p>Often 'workers', albeit with some ability to decline work. Could be treated as employees provided they accept work offered and are available a minimum number of hours per week.</p>		<p>Zero hours contracts</p> <p>'Gig economy' staff: on call, no obligation to give them work and they do not have to do work when asked. May still be deemed 'workers' (and hence have more rights), depending on the facts. Are they really self-employed? What level of control do you have over them?</p>	

What are my responsibilities as an employer?

Need to offer?	Employee	Worker	Self-employed	Volunteer
Health & safety: safe and secure working environment	✓	✓	✓	✓
Make reasonable adjustments to premises for disability	✓	✓	✓	✓
No discrimination on grounds of religion or belief, sex, gender reassignment, age, disability, marital status, pregnancy and maternity	✓	✓	✓	✓
Statutory annual leave (paid holiday up to 28 days/yr pro-rata for part-timers)	✓	✓		
National minimum wage	✓	✓		
Paid sick leave	✓	✓		
Paid maternity, paternity, adoption leave	✓	✓		
Employer's liability insurance	✓	✓		
Register with HMRC: payroll, tax, National Insurance contributions	✓	✓		
Put staff into workplace pension scheme and pay into it	✓	✓		
Minimum notice period if dismissing/employment otherwise ending	✓	✓		
Flexible working	✓	✓		
Time off for emergencies	✓	✓		
Statutory redundancy pay (after 2 years' continuous service)	✓	✓		
Protection against unfair dismissal	✓	✓		
Protection against whistleblowing in public interest	✓	✓		

What do I need to do when hiring and firing?

HIRING	FIRING
<ul style="list-style-type: none"> • Register with HMRC as an employer: even if you are the only employee • Set up payroll system (engage a payroll service provider to do it for you or install software to pay via an online National Insurance Contributions via Pay As You Earn) • Ensure you meet health and safety standards • Get employer's liability insurance • Make necessary arrangements to offer workplace pensions • Clarify exactly what support you need: document descriptions of roles rather than particular people, setting out scope of intended activities to be performed for each role • Document objective description of experience and/or capabilities required for each role • Document objective rationale for selection of particular candidate for each role • Avoid discriminatory treatment of any candidate when recruiting and of any staff (irrespective of employment status) re: pay or redundancy • Be prepared to make reasonable changes to access arrangements to accommodate staff with a disability • Employment contract, incl: payment, benefits, scope, compliance with company code, confidentiality, IP rights, grounds for termination, possibly reasonable non-competitive poaching provisions • 'On-boarding': familiarise employee with company policies and codes, remind them of terms of contract • Check any confidentiality, IP, use rights, non-competes or no poaching restrictions new employee may still have under contract with previous employer: ensure he/she complies with them 	<ul style="list-style-type: none"> • Check employment contract: comply with it eg the stipulated number of weeks/months (written?) notice of termination; employee satisfies specified grounds for termination or otherwise in breach • Document objective justification for termination • Document objective rationale for making decision: avoid discrimination • Redundancies: contact legal adviser to help <ul style="list-style-type: none"> - Voluntary or contractual? If compulsory: <ul style="list-style-type: none"> - Show changes to business activities/ways of operating/location/seasonal means job will not exist - Consult with employees - Try to find employee alternative employment in your organisation - Offer reasonable time off to find a new job - May need to offer redundancy pay - Notice: from 1-12 weeks (1 week per year employment) • 'Off-boarding': remind employee of continuing obligations of confidentiality, IP, use rights, non-competes and no poaching (for reasonable periods) <p>Discrimination</p> <p>Preferring another person on basis of ethnicity, religion, belief, sexual orientation, disability, age, trade union membership, marital status or maternity/paternity</p>

How to handle employment disputes

Disputes could arise concerning any grievance complaint brought by an employee (such as discrimination in the workplace) or disciplinary action you bring, or perhaps concerning unfair dismissal or redundancy

WORKPLACE DISPUTES	DISMISSALS & REDUNDANCIES
<ul style="list-style-type: none"> • Develop written grievance and disciplinary procedures: employee contract, company internet and handbook • Follow ACAS guidelines on discipline and grievances: at work • Grievances: include right for employee to meet with you to discuss • Include appeal procedure: how it will be managed, any meetings, time limits etc. • If still unresolved: mediation (eg ACAS), conciliation, arbitration • Ultimately appeal to Employment Tribunal 	<ul style="list-style-type: none"> • Stick to contract: avoid wrongful dismissal (eg did not give proper notice) or constructive dismissal (eg change location with no/less notice) • Give fair reason and act reasonably (eg give plenty of notice) to avoid unfair dismissal claim • Follow ACAS code of practice for disciplinary and grievance procedures • Instruct lawyer if not clear • Employee may dispute: consider mediation (eg ACAS), conciliation, arbitration, Employment Tribunal

ACAS, Advisory Conciliation and Arbitration Service. Free, impartial advice to employers and employees.

Also think about

- Contracts: employees, agencies, freelancers • Disputes
- Data protection & other compliance • Intellectual property rights and confidentiality