

Remuneration and Employment

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It's easy to understand that when a volunteer sits in a room with lots of highly paid people and they want your expertise it doesn't feel fair.

Are people volunteers, paid employees or self employed? It's often hard to decide.

This is a minefield for organisations.

The differences in Employment status

- Volunteers – these are people who give their time freely to help an organisation who might attend a meeting or do some specific work. They do not have a contract and can choose when and if they undertake roles. They should be entitled to out of pocket expenses so that it does not cost them to volunteer.
- Self employed – these people undertake work or activity and are paid for doing this. They are responsible for their own tax and national insurance and reporting to HMRC
- Employed person- This person works for the organisation. The organisation is responsible for any deductions for tax and NI, and for passing these to HMRC. An employee also has additional employment rights.

Legal requirements

- Unincorporated associations (constituted groups) can legally choose who to pay. There are no legal issues, but there are a number of good practice ones.
- CIO – Trustees \ committee members (i.e. those in strategic control) cannot be paid - with some very specific exceptions (if a trustee is say a solicitor and you need some legal work done, you could employ them in their professional capacity. BUT they should take no part in the discussions and decision to employ them, and the organisation should be assured that the price being charged is appropriate)
- CIC – legally directors (committee members) can be paid depending on the way the governing document is written, either as paid staff to do activity or just for being directors

Good practice

- The good practice issues relate to who decides who and what will be paid, as often the people making the decisions are the same as those who will receive the payments.
- Also if you start to pay people as a constituted group it's hard to then stop that at a later date.
- Of course people should not be financially out of pocket for undertaking activity on behalf of the organisation as a volunteer, so it is acceptable and appropriate to pay expenses. This might be for travel, subsistence, possibly childcare, telephone calls or even if the role requires use of broadband making a contribution to this.

Honorariums, Stipends, Fees and other payments

- Fees a flat rate fee paid to someone for giving up their time to carry out certain duties is taxable.
- An honorarium is a token payment made to bestow recognition to an individual for services they perform, for which payment is not required. Typically, an honorarium is issued when custom or propriety forbids a price to be set. Therefore, payment to the recipient is at the discretion of the payer.
- A stipend is a nominal sum of money paid to trainees, interns, or students to help cover basic costs while they receive career training. Stipends are offered to individuals rather than a salary. Interns, apprentices, fellows, and clergy are common recipients of stipends.

Honorariums, Stipends, Fees and other payments cont.

- You will need to decide if the volunteer is actually an employee
- If you identify that they would normally be recognised as an employee although the amounts may be very small, you should always operate PAYE on payment of an honorarium
- If you identify the person as an employee there might be an issue with regard to minimum wage legislation.

Penalties for getting it wrong

- If you do not deduct income tax and NIC under PAYE, because you do not think the volunteer is an employee or office holder, but HMRC later disagree, you could find that you have to pay over the unpaid income tax and NICs and also a penalty.

Employee or self employed

Key Points Employers Should Consider

- Do you have the right to reject a substitute person?
- Does your organisation have the right to move the worker from the task they originally agreed to do?
- Does your organisation have the right to decide how the work is done?
- Does your organisation have the right to decide the worker's working hours?
- Does your organisation have the right to decide where the worker does the work?

- Will the worker have to fund any other costs before your organisation pays them?
- Does your organisation know who will be doing this work?
- If your organisation was not happy with the work, would the worker have to put it right?
- How would the worker introduce themselves to your consumers or suppliers?
- Does this contract stop the worker from doing similar work for other organisations?
- Will this work take up the majority of the worker's available working time?

HMRC tool

- <https://www.tax.service.gov.uk/check-employment-status-for-tax/disclaimer>

HMRC will stand by the result you get from this tool.

Warning:

- This would not be the case if the information you have provided was checked and found to be inaccurate.
- HMRC will also not stand by results achieved through contrived arrangements, designed to get a particular outcome from the service. This would be treated as evidence of deliberate non-compliance, which can attract higher associated penalties.

What to do if you are an employer

- Register your payroll with HMRC if you:
 - ✓ pay any employees, including company directors, £123 or more a week
 - ✓ employ anyone who receives a pension or already has another job
 - ✓ Provide expenses or benefits to employees, including company directors
- Choose how your payroll will be administered:
 - ✓ Pay somebody to do it
 - ✓ Choose a software system (HMRC have a free payroll system if you have less than 10 employees)
- Tell HMRC about your employees
- Record pay and make deductions and report to HMRC monthly
- Pay HMRC

Support Available To Forums

- The NNPCF are approaching HMRC to ask about the approach to parent reps and they will share back with us any further update
- You can talk things through with your Contact Adviser. They can't give specific advice as they are not experts in this area – and it's a complicated field. However what they can do is gather information about your specific circumstances so we can respond as supportively as possible – for example doing another session, or smaller workshops to help people with their specifics, link forums together who are doing something similar. . . or perhaps something else
- You can use your Community Matters subscription to ask questions about governance / managing the processes around paying people.
- Community Matters can provide support to work through the HMRC online checker to make sure you answer the questions accurately – this will be as a paid for service.