

EMPLOYING YOUR NEW STARTER

Guide 2.2: Creating a Contract of Employment

Before your new employee is due to start work, you need to draw up an employment contract for them. This is because it is a legal requirement to provide them with a contract no later than their first day of work.

Written Statement of Employment Particulars

As a legal minimum, the contract must provide a “Written Statement of Employment Particulars”. The templates attached show exactly what details you need to include. You can include more details in your employment contract if you wish but remember that an employment contract is a legally binding document. It is wise to take further advice before drawing up more complex contracts.

Employment Status. Are you taking on a Worker, Employee or Contractor?

Someone may work for you as a Worker, an Employee or a Contractor. It is important to get it right as each status brings different rights and responsibilities.

Workers

Your staff are likely to be classed as workers if:

- their work for you is casual, for example, less structured or not regular
- you don't ask them to work regularly or provide guaranteed hours

If your staff are workers, they are not obliged to accept any work you may offer them, but they are obliged to attend any assignment to which they have specifically agreed.

Employees

Your staff are more likely to be classed as employees if:

- you are in charge of their workload and specify how that work should be done
- you require them to work regularly
- they can only be absent from work on agreed leave

- you consistently provide work for them
- they cannot refuse to do the work

Templates that you can use for both Workers and Employees are included below.

Contractors

Contractors are self-employed. They do not work for you under a contract of employment (sometimes referred to as a “Contract of Service”). Instead, they provide services to you (under a “Contract for Services”). You only pay contractors for specific tasks that you both agree they will undertake.

Contractors:

- are responsible for how and when they work
- are the owner of a company or are a freelancer
- invoice for your pay instead of getting a wage
- are able to send someone else to do the work
- are able to work for different clients
- are responsible for paying their own tax and National Insurance

Contractors will generally send you their proposal detailing the work they will do for you.

You will need a different contract depending on whether you are taking on a worker, an employee or a contractor.

For HR support, please contact Colden HR on [0121 284 0852](tel:01212840852) or email enquiries@coldenhr.co.uk and quote your NCASS membership number.