

Decision Tree to establish whether an individual¹ is a Worker, Self Employed or an Employee

Please note: This decision tree does NOT apply if the individual is an existing employee. Payment for such individuals should be made using the appropriate CHRIS claim form.

1) Do you want a permanent employee?

Yes → Employee

No



You do not need to go through the Decision Tree if you have made a strategic decision to recruit a permanent member of staff.

2) Will the individual's continued involvement be critical to a core activity?

Yes → Employee

No



If someone's continued involvement is critical, you may want to give them the security of an employment contract so that they know that the University has committed to employing them and they are considered to have made a commitment to the University. Think also about whether you want to provide for the University to own any IP they create.

3) Do you want the individual to be obliged to accept work from you in the future or are they asking you to commit to giving them further work?

Yes → Employee

No



Taking on an employee creates mutuality of obligation. With a worker, that level of mutual obligation does not exist. Thus if the individual is to be retained for a particular task which might be repeated, but could be done by a different person then worker status is appropriate. If they are to be retained for a series of tasks where it is essential for continuity and consistency that the same person does that task every time then employee status is appropriate.

¹ Does not include limited companies, partnerships, clubs, associations or societies.

4) Will the individual be a lower degree examiner?

Yes → Worker

No

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Lower degree examiners must always be workers (HMRC rule) if not employees. There is no limit on the number of sessions a higher degree examiner can undertake.

5) Is the individual lecturing, teaching or supervising for not more than 5 sessions per term and not exceeding 14 sessions in a year or examining a higher degree?

Yes → Self-employment.

No

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Self-employed lecturing, teaching and supervision services must be for no more than 5 sessions a term and not exceed 14 sessions in a year, across the whole University. There is no limit on the number of sessions a higher degree examiner can undertake. A session is where an individual is teaching the same subject to the same group of individuals but cannot be longer than a day. These rules do NOT apply to any other services than those identified.

6) Does the individual claim to be self-employed and/or do they meet the conditions in chapter 5a of the financial procedures manual?

Yes → Possible Self Employed. Fill in an FD3 form

→ If approved for self-employment, individual to submit invoice and paid through CUFS.

→ If rejected for self-employment then re-enter decision tree here with answer 'No'.

No

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The Taxation Office in Fin Div use form FD3 as part of their assessment whether someone is genuinely self-employed - <http://www.admin.cam.ac.uk/cam-only/offices/finance/procedures/employment/>

7) Will/Has the individual work(ed) less than 6 hours per week?

Yes → Worker

No



If someone works under 6 hours per week and the answer to the above questions above has been "No", then they can be appointed as a worker on an indefinite basis.

8) Will/has the individual worked for more than 2 terms/8 months?

Yes → Possible employee. Review to assess.

No



If someone works more than 6 hours a week, they can only be a worker for 2 terms or 8 months unless there is a break of at least one term or 4 months (university vacations do not count as a break in service for this purpose).

Worker. Monitor duration and review if 2 term / 8 month limit is breached.