

Employment status and different types of work contract

This guide:

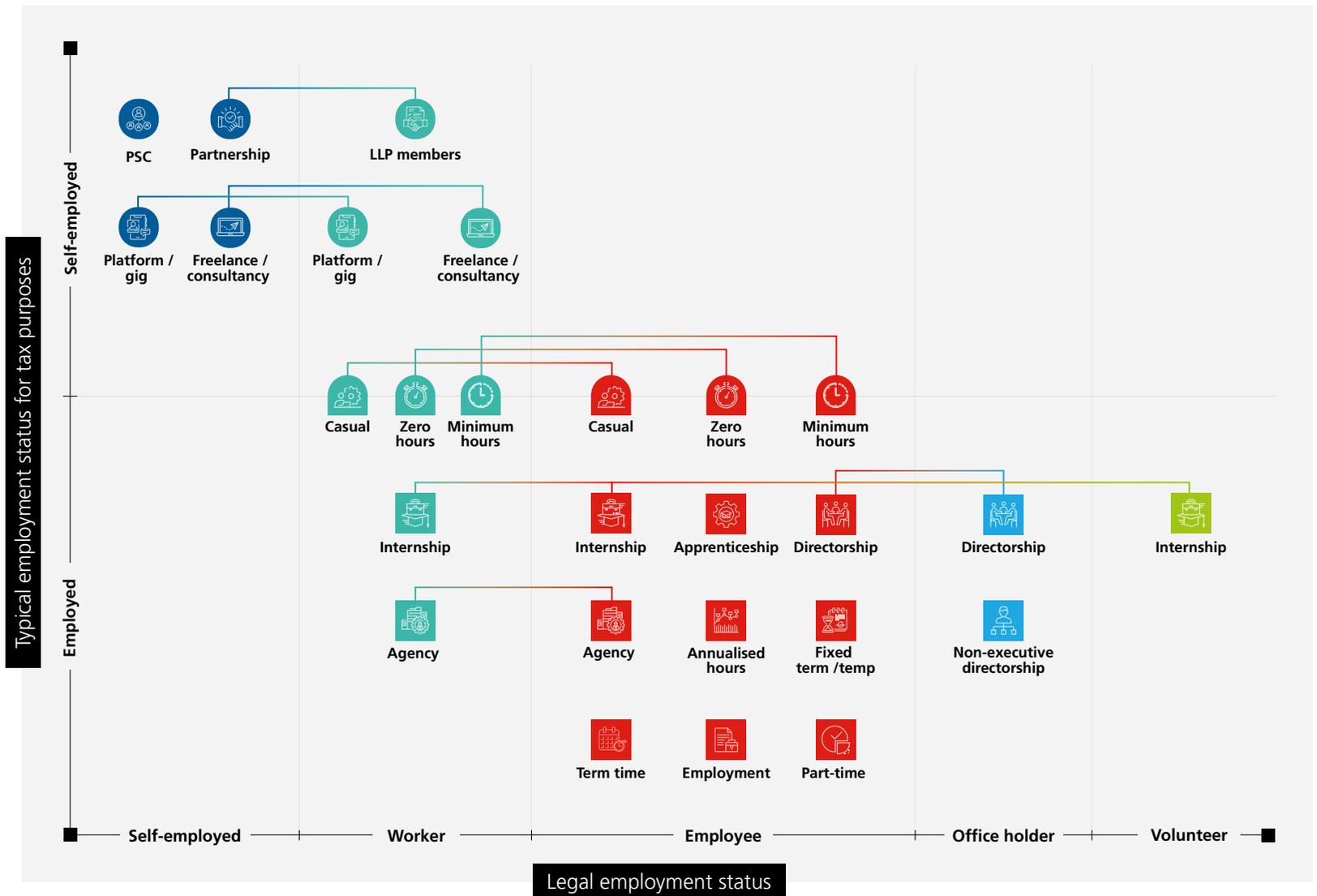
- ▶ describes the main types of status for employment law and tax purposes
- ▶ explains which employment rights apply to which category
- ▶ summarises the main types of work contract and the circumstances in which they are used, and
- ▶ provides some international comparisons.



Overview – typical work contracts and their legal status

Various labels are given to different types of contracts and working patterns.

Contracts may have the same label but different status for tax and employment law purposes. Legal status depends upon how the relationship operates in practice.



Legal status for employment and tax purposes

The UK operates a three-tier model, with most individuals being classed as employees, workers or self-employed independent contractors.

What the parties have labelled the arrangement (as employment or something else) will be relevant but not decisive.

 <p>Employee</p>	<p>The statutory definition is unhelpful – an employee is someone who has “entered into or works under a contract of employment”. However, generally three fundamental things are required:</p> <ul style="list-style-type: none">▶ Personal service – this means that the individual is obliged to perform work personally and is not permitted to send a substitute to do the work in their place.▶ Mutuality of obligation – there must be a minimum degree of commitment on both sides.▶ Control – the employer must have sufficient control over the individual and the way they do the work. The employer will normally give directions to the employee and use disciplinary proceedings if the employee fails to comply. Although a highly skilled or senior employee may have a lot of discretion as to how tasks are performed, the employer will retain a right to give instructions and determine workplace policies, place of work and working times. <p>Although these are considered the ‘irreducible minimum’ all aspects of the relationship must be considered and assessed for consistency with an employment relationship. Other relevant factors include:</p> <ul style="list-style-type: none">▶ the level of integration into the business;▶ the nature and length of the engagement; and▶ how the individual is rewarded.
 <p>Worker</p>	<p>All employees are workers but not all workers are employees.</p> <p>To be a worker, the individual does not need to have committed to any minimum level of work. An individual can be a worker during a particular assignment even if there is no obligation on them to accept future assignments.</p> <p>A worker must have a contract to perform work or services personally for another party. If there is a genuine and unrestricted power to appoint a substitute to do the work, there is no obligation of personal service and so the individual cannot be a worker.</p> <p>The other party must not be a client or customer of any profession or business carried on by the individual.</p>
 <p>Self-employed independent contractor</p>	<p>Someone who is a self-employed independent contractor is either:</p> <ul style="list-style-type: none">▶ not obliged to provide personal service; and/or▶ carrying on a business or profession on their own account, where the other party is a client or customer. <p>Relevant factors include:</p> <ul style="list-style-type: none">▶ the degree of control exercised by the other party - less control means the individual is more likely to be in business on their own account;▶ the exclusivity of the arrangement – a self-employed person may work for several different clients;▶ whether the individual is actively marketing their services to the world in general;▶ how the individual is rewarded;▶ who supplies any equipment used; and▶ the level of risk assumed by the individual.

Legal status for employment and tax purposes

There are also some other less common categories of employment status, such as:



Office holder

A person appointed to an office by a company or organisation to carry out duties under the relevant statute, constitution or deed. This includes directors, board members, crown appointments, club treasurers, trade union secretaries and trustees. They will generally get paid but do not generally have employment rights. Note, however, that many employees are also office holders – for example executive directors of a company will generally have both an employment contract and hold an office.



Volunteer

A person that provides their services without being paid. They are not obliged to work and there is generally no contract in place. This means that they don't get the benefit of the same legal rights that employees do.



Employee shareholder

A person who works under an employment contract and owns at least £2,000 worth of shares in their employer's company or parent company. They have most of the same rights as employees and workers but do not, for example, get protection from unfair dismissal. This category was introduced in 2013 but the tax reliefs associated with the shareholding were abolished in 2016, meaning that no new such contracts are likely to be entered into. Very rare.



Employment tax

For tax purposes, people are either **employed** or **self-employed** – there is no intermediate 'worker' status. The tests for determining employment status for tax purposes and employment rights are similar but not exactly the same.

Employment rights

Employment rights vary depending on whether an individual is an employee, worker or self-employed independent contractor.

Right/Protection	 Employee	 Worker	 Self-employed independent contractor
Right to not be unfairly dismissed (after 2 years' service)	 Yes	 No	 No
Right to receive written statement of terms & conditions	 Yes	 Yes	 No
Right to receive written statement of reasons for dismissal	 Yes	 No	 No
Right to receive an itemised payslip	 Yes	 Yes	 No
Statutory minimum notice	 Yes	 No	 No
Statutory redundancy pay (after 2 years' service)	 Yes	 No	 No
Protection from discrimination in the workplace	 Yes	 Yes	 In some cases (if there is an obligation to provide personal services).
Protection from unfavourable treatment on grounds of part time working	 Yes	 Yes	 No

Employment rights

Right/Protection	 Employee	 Worker	 Self-employed independent contractor
Protection from unfavourable treatment on grounds of fixed-term employment	 Yes	 No	 No
National minimum wage	 Yes	 Yes	 No
Protection from unlawful deduction from wages	 Yes	 Yes	 No
Paid holiday	 Yes	 Yes	 No
Right to daily & weekly rest breaks	 Yes	 Yes	 No
Pension auto-enrolment	 Yes	 Yes	 No
Right to be accompanied at a disciplinary or grievance hearing	 Yes	 Yes	 No
Whistleblowing protection	 Yes	 Yes	 In some cases (if there is an obligation to provide personal services).
Statutory sick pay	 Yes	 Possibly – if earnings liable for Class 1 National Insurance Contributions.	 No
Statutory maternity, paternity, adoption, shared parental, parental bereavement, parental leave & pay	 Yes	 No	 No

Employment rights

Right/Protection	 Employee	 Worker	 Self-employed independent contractor
Unpaid time off to care for dependents	 Yes	 No	 No
Right to request flexible working	 Yes	 No	 No
Time off for ante-natal care/appointments or adoption appointments	 Yes	 No	 No
Time off for trade union activities	 Yes	 No	 No
Time off to study or undergo training	 Yes	 No	 No
Covered by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)	 Yes	 Probably not (but there is a non-binding tribunal case that suggests otherwise).	 No
Right to collective redundancy consultation	 Yes	 No	 No
Right to request an information and consultation body	 Yes	 No	 No
Health & safety in the workplace	 Yes	 Yes	 Yes (although statutory duties relating to health and safety may not apply, there is a common law duty of care in respect of occupier's liability).

Different types of work contract

Various labels are given to different types of work contract and working arrangements, and not all of them are defined by law.

Note that different employers may be using different terminology to describe the same type of relationship. Here are some of the most common types of work contract, but this is not a complete list.

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 Employment	<p>To recruit permanent staff with a longer-term commitment to the business.</p> <p>Businesses can include post-termination restrictions and be reassured that any intellectual property (IP) created during the course of the employee's work belongs to the employer.</p> <p>Individuals may prefer permanent employment as it gives them stability.</p> <p>Employment contracts encompass many types of different arrangement depending on the individual's working arrangements and how they are paid, for example, salaried, hourly paid, remote etc.</p>	Employee.	Employed.	The Employment Rights Act 1996 and various other statutes.
 Partnership	<p>To appoint people responsible for the management of a partnership. Partners may be members of limited liability partnerships (LLPs) although there are other types of partnerships.</p> <p>For an individual, being a partner allows them a share in profits. For those in an LLP, their individual liability will be limited to the amount of their capital contribution.</p> <p>Typically seen in accountancy and law firms. Note that some industries will hold employees out as 'partners' in title but this does not reflect their legal employment status.</p>	Self-employed independent contractor or (in some cases) worker.	Self-employed.	LLPs are governed by Limited Liability Partnerships Act 2000.

Different types of work contract

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 <p>Directorship</p>	<p>When appointing people responsible for the management of a company to the board</p> <p>For individuals, holding office may be a requirement for senior company roles. It is usually a leadership role which allows influence over strategy.</p> <p>Executive directors will generally also have an employment contract (often called a service agreement).</p>	Office holder and (in most cases) also employee.	Employed. However, there can be complexities if the office holder is paid by, for example, a personal services company.	The Companies Act 2006 regulates directors. Other regulations may be relevant e.g. the UK Corporate Governance Code.
 <p>Non-executive directorship</p>	<p>As above, except non-executive directors are appointed to the board but not involved in the day-to-day management of the company.</p> <p>This role allows individuals to provide strategic influence and oversight. Can be a source of additional income, while providing increased flexibility.</p>	Office holder.	Employed.	As above.
 <p>Casual</p>	<p>To help manage fluctuating demand particularly when work is seasonal, unpredictable, inconsistent or only occasional.</p> <p>This category is very broad as it encompasses certain different types of arrangement and is not something specifically defined in law, but a casual worker generally means someone who is not part of the core permanent workforce.</p> <p>Individuals may prefer the greater flexibility over working hours and option to work for multiple employers. A business can also utilise a large 'bank' of casual workers to meet demands.</p>	<p>Employee or worker.</p> <p>To determine this, there is usually a need to analyse the relationship both during and in between assignments.</p>	Employed or self-employed, depending on the working relationship.	The Workers (Predictable Terms and Conditions) Act, which gives certain workers, agency workers and employees a new statutory right to request a predictable working pattern, received Royal Assent on 19 September 2023 and is expected to come into force later this year.

Different types of work contract

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 Zero hours	<p>To engage someone without there being a minimum level of work or pay. In some contracts the individual is obliged to accept work offered, but not in all. More information is available in our Zero hours contracts guide.</p>	Worker or employee.	<p>Employed or self-employed, depending on the working relationship.</p> <p>If an individual is an employee, they will generally be considered employed for tax purposes.</p>	<p>Under the Employment Rights Act, a provision preventing a zero hours worker from working elsewhere under another contract (or doing so without the business's consent) is unenforceable.</p>
 Minimum hours	<p>Similar to zero-hours but individuals are guaranteed a number of hours of work each week. They may be offered more but are usually not obliged to accept these. Has the same advantages as casual worker and zero hours contracts but suitable where a baseline minimum of work can be committed to by both parties.</p>	Employee or worker.	<p>Employed or self-employed, depending on the working relationship.</p> <p>If an individual is an employee, they will generally be considered employed for tax purposes.</p>	<p>The Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022 banned exclusivity clauses in zero hours contracts where the workers' guaranteed weekly income is less than the Lower Earnings Limit (around £123 a week).</p>
 Annualised hours	<p>Where there are predictable fluctuations and peaks in demand over the year.</p> <p>For businesses, annualising hours can avoid overtime or additional temporary labour costs during peak times.</p> <p>For the individual, this type of contract offers the flexibility of working less during downtimes while retaining a predictable salary.</p>	Employee.	Employee.	

Different types of work contract

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 <p>Agency</p>	<p>Agency workers are supplied by an agency to work for the hirer. Often this will be to provide cover for absent employees (e.g. to keep a production line going if an employee is off sick) or to manage surges in demand (e.g. in hospitality or tourism), can also be used where there are internal headcount restraints or where a company does not want to take on the administrative and legal responsibilities associated with directly employing someone.</p> <p>There may be various intermediaries involved.</p> <p>For the individual this type of work can offer flexibility and, in some instances, higher pay.</p>	Worker or employee of the agency (not the hirer).	Employed (by the agency).	<p>The Agency Workers Regulations 2010 (“AWR”) give agency workers certain rights.</p> <p>The Conduct of Employment Agencies and Employment Businesses Regulations 2003 also apply to the agency.</p> <p>More information is available on our Agency workers guide.</p>
 <p>Freelance / consultancy</p>	<p>To resource short-term projects or projects that require specific expertise.</p> <p>The company has no continuing obligation to provide work and the engagement is easier to terminate than an employment contract.</p> <p>Freelancers may prefer this type of contract as it generally offers flexibility, freedom to work for multiple companies and greater control over intellectual property.</p> <p>Very common in the creative industries and tech/IT sector.</p>	Usually self-employed independent contractor or worker.	Self-employed.	
 <p>PSC</p>	<p>To hire an individual who operates through their own personal services company (PSC), for example a management consultant.</p> <p>The individual will generally be operating through a PSC because it is favourable to them, but the company also gains more certainty over employment status.</p>	Self-employed independent contractor.	Self-employed (subject to IR35).	IR35 (tax avoidance rule which aims to identify when an individual would be considered an employee if the intermediary was not used).

Different types of work contract

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 <p>Platform / gig</p>	<p>For a business running its services via an online platform i.e. in the gig economy.</p> <p>A key feature of this population is working as and when they want to, often through multiple platforms. This makes many traditional 'employment' rights much harder to extend to this population (eg. what's 'working time' when an individual is multi-apping, what's 'time off' when the individual can work as and when they want).</p>	<p>Self-employed independent contractor or worker – personal service is the most relevant determining factor.</p>	<p>Self-employed.</p>	<p>Not in the UK but the EU has recently passed the Platform Workers Directive.</p>
 <p>Fixed term / temp</p>	<p>To resource specific projects with a defined start and end date or to provide absence cover (e.g. if an employee is on maternity leave).</p> <p>A true fixed term contract comes to an end automatically at the end point without notice. Note that many so-called 'temps' are actually hired on permanent contracts rather than fixed term contracts. This is common with seasonal workers where there is a mutual understanding that the contract will be for a short time but no clear-cut end point so the employer will give notice towards the end.</p>	<p>Employee.</p>	<p>Employed.</p>	<p>The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 apply, giving rights not to be treated less favourably than a comparable permanent employee (unless objectively justified) and deemed conversion to a permanent contract after four years on successive fixed term contracts (unless continuing with fixed term is justified).</p>

Different types of work contract

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 Part-time	<p>When there is a need for resource on a less than full time basis.</p> <p>These are commonly requested by employees as a type of flexible working arrangement.</p>	Employee.	Employed.	<p>The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 apply. Under these regulations a part-time employee or worker has the right not to be treated less favourably than a comparable full time employee or worker (unless objectively justified).</p>
 Term time	<p>For organisations operating in the education sector or when requested by parents as a type of flexible working arrangement to help them manage caring responsibilities in school holidays.</p> <p>This is a type of part-time contract (it is essentially part-year rather than part-week).</p>	Employee.	Employed.	<p>There are complex rules around holiday entitlement. The Working Time Regulations 1998 have recently been amended to address this but the position remains legally uncertain.</p>

Different types of work contract

Type of work contract	When would they be used by a business or preferred by an individual?	Typical legal employment status	Typical employment status for tax purposes	Are there any specific regulations for this type of contract?
 <p>Internship</p>	<p>For periods of work experience. There is no legal definition of internship and how they operate can vary depending on the sector and organisation. This could range from informal arrangements lasting a few days to more formal arrangements lasting for months with the promise of future employment.</p>	<p>Depends on the type of internship.</p> <p>Could be employee, worker or volunteer.</p>	<p>If paid, generally employed.</p>	<p>Work experience placements not exceeding one year undertaken by students as part of a UK-based higher education or further education course are exempt from the National Minimum Wage.</p>
 <p>Apprenticeship</p>	<p>These are work-based training programmes allowing people aged 16 and over to work towards a recognised qualification.</p> <p>See our guide to apprenticeships. Statutory apprenticeships are now regulated by law, with the apprentice being treated as an employee for legal purposes. There remains an old-fashioned type of apprenticeship called a common law apprenticeship which applies outside of the statutory framework.</p> <p>Note that this is a rare example of an employment law where the position differs in Scotland.</p>	<p>Employee (in England and Wales).</p>	<p>Employed.</p>	<p>Apprentices are entitled to the national minimum wage, and there is a special Apprenticeship Rate applicable to apprentices under the age of 19, or over the age of 19 and in the first year of their apprenticeship.</p> <p>The Apprenticeships, Skills, Children and Learning Act 2009 introduced a statutory apprenticeship in England and Wales.</p>

International comparison of legal status for employment rights purposes

The UK is not the only country with a three-tier employment status model.

Here are some examples of how other jurisdictions approach employment status:

Country	Two-tier or three-tier status category?	Category and details
 France	Two-tier	Employee and self-employed contractors. Platform workers remain self-employed but benefit from more protection than traditional self-employed workers discussions are ongoing in France for the adoption of an intermediary status similar to worker status in the UK.
 Italy	Three tier	Employee and independent contractor. A sub-type of independent contractor contract exists called a collaboration contract (or co-co-co). There are two types of co-co-co. In one of these types, where work is organised and directed by another, main employment rules would apply.
 Australia	Two-tier	Employee and independent contractor. Australia does not have a third tier but does have arrangements for casual employees, who are classed as employees but do not benefit from the same rights. For instance, they are not entitled to unfair dismissal rights and most forms of unpaid leave but their national minimum wage is uplifted (a "loading") to accommodate for the lack of rights. A bill has just been passed to introduce enhanced rights and protections for 'employee-like' workers.

International comparison of legal status for employment rights purposes

Country	Two-tier or three-tier status category?	Category and details
 Germany	Three-tier	<p>Employee, employee-like person and self-employed.</p> <p>Germany also recognises the concept of mini and midi jobs:</p> <p>Mini job: a casual arrangement where workers' wages are capped (538 euros a month). These jobs often encompass seasonal work (mini job contracts cannot extend over three consecutive months in a year).</p> <p>Midi jobs: a casual arrangement where the workers earns more than a mini job but less than 2,000 euros a month.</p> <p>Both arrangements mean that workers do not earn enough to entitle them to the fullest full range of employment protections.</p>
 China	Three-tier	<p>Employee, self-employed and independent contractor.</p> <p>The difference between self-employed and independent contractor is that the former usually refers to those who do not have a regular or long-term employer, while the latter refers to those who have a regular or long-term employer.</p>
 USA	Two-tier	<p>Employee and independent contractor.</p> <p>Tests may vary by state.</p>
 Ireland	Two-tier	Employee and self-employed.

Law is stated as at March 2023.

