logo

University of Worcester Employment Status Guidance

The following guidance is designed to be used by HR, Institutes and Departments to indicate whether an **individual** who is carrying out work for the University is an employee or self-employed, and whether payments to him/her should be made via payroll.

The University needs to evidence the fact that it has considered this issue to HMRC when taking on **new** employers, workers or consultants, therefore, please review this guidance and complete the attached declaration. Please send a copy to Andrea Marshall in Finance.

Please note that our aim by introducing this process is to ensure that the position of the University is protected. The retrospective application of tax, NI and penalties can be costly from both a financial and staff time perspective. **If in doubt payments should be put through payroll.**

**Declaration**

Name of third party:……………………………………………………………………………………………………………………

Please provide a brief explanation of what work they will carry out for the University:

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I have reviewed the following guidance and confirm that the individual should / should not \* be paid via payroll (\*delete as applicable).

If the individual will not be paid via payroll, I confirm that the University’s procurement and tendering rules have been applied.

If the individual will be paid via payroll, I confirm that HR has been advised.

Signed……………………………………………………………………..

Name………………………………………………………………………

Date…………………………………………………………………………..

Reviewed by Finance

Name……………………………………………………………

Date…………………………………………………………………………..

Guidelines

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| *Are we paying…* | *Comment/Conditions* | *Result* |
| An individual who is an Hourly Paid Lecturer | Contract of employment will be in place, hourly rate agreed, individual will be paid for tuition, course preparation and marking. | Goes through payroll. This is non-negotiable. |
| An individual who is a Visiting Speaker | Individual will come in to perform a lecture or similar activity. Hourly rate paid will cover preparation. Lecturer will not be expected to mark papers.  Whether the individual is employed or not will depend on number of times we use the individual. If the University as a whole is likely to use them for more than 3 sessions per annum. A session is defined as up to one day teaching the same group of students.  The individual needs to have his/her own Professional Indemnity Insurance and Public Liability Insurance in place. | If used more than 3 times across the University, put through payroll.  If regarded as self-employed, review this position regularly and at least on an annual basis. |
| An individual who is a Student of the University | Contract of employment will be in place, hourly rate agreed (e.g. student ambassadors) | Goes through payroll. This is non-negotiable. |
| An individual who is a First Degree Examiner (incl. markers, invigilators and question setters) |  | Goes through payroll – HMRC ruling in place. Non-negotiable. |
| An individual who is a Masters or Doctorate Examiner  (incl. markers, invigilators and question setters) |  | Self-employed. (Please note that if the individual is already on the payroll, any payments will be made via payroll.) |
| An individual who is a Volunteer | The individual attends the University to take part in a research project or give their views on/experience of issues. The individual is given a **small sum** to compensate them for their time and travel costs. | HMRC agree that the amounts paid are unlikely to fall within the definition of earnings. However, if the University pays an hourly rate in line with the amounts that we would pay to visiting speakers or HPL’s, then follow the guidance for visiting speaker or HPL’s. |
| An individual who is already on the payroll |  | Goes through payroll. This is non-negotiable. |
| A Limited Company | You must have adhered to the University’s Procurement and tendering process.  \*\*\*Beware of individuals who use a “trading as” name, but are actually individual traders\*\*\* | Does not go through payroll BUT we can only pay the Ltd Company – not an individual. |
| Agency Worker | Will depend on agreement with the agency. You must have adhered to the University’s Procurement and tendering process. | Usually goes through payroll of agency, but this does create a VAT cost for the University. |
| Individual on a limited time contract (fixed term) | The individual might have been recruited via an employment agency (and the University has paid a finder’s fee) or The University recruits direct. | Goes through payroll. This is non-negotiable. |

**For all other instances complete the checklist on the next page**

The following list will give an **indication** of whether someone who is going to work for the University is an employee or not. Determining Employment Status is NOT an exact science. If in doubt the Employment Status Indicator Tool should be completed (see link at end of this form) and a copy of the result printed and retained.

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| --- | --- | --- | --- |
| *Pointers to indicate self-employed* | *Give 1 pt for Y, 0 pt for N* | *Pointers to indicate employed by the University* | *Give 1 pt for Y, 0 pt for N* |
| Contract for services in place or is due to be put in place that has been through the University’s procurement process |  | Contract of employment in place or is due to be put in place |  |
| Any individual with appropriate experience can be substituted to carry out the work |  | Only the individual can carry out the work |  |
| The individual is obliged to send someone else if they cannot carry out the work and in reality this is what will happen. |  | The individual is obliged to send someone else if they cannot carry out the work but in reality this will not happen. |  |
| If a third party is sent to do the work instead of the individual, the third party will be paid by the individual – not the University. |  | If a third party is sent to do the work instead of the individual, the third party will be paid by the University. |  |
| The Individual determines what work is done, where the work is done, when the work is done and how the work is done within the terms of the contract |  | The University can exert control over the individual over what work is done, where the work is done, when the work is done and how the work is done |  |
| The Individual takes the financial risk (e.g. a fixed price is agreed for the work and if it takes more or less time than that, the fixed price is still paid by the University) |  | Hourly day or monthly rate is paid. |  |
| No University email address |  | Individual has a University email address and/or phone extension |  |
| The individual is required to have his/her own Professional Indemnity Insurance and Public Liability Insurance policies in place and can provide evidence of these policies |  | The individual does not have his/her own Professional Indemnity Insurance and Public Liability Insurance policies in place |  |
| The individual uses his/her own “tools”, such as a laptop/tablet, etc. and other equipment necessary to perform the task |  | The University provides a laptop, tablet, etc. for use by the individual |  |
| The individual is registered for VAT and has provided his/her VAT registration number |  | The individual is not registered for VAT |  |
| The work due to be undertaken is not usually carried out by an employee of the University |  | The work due to be undertaken is usually carried out by an employee of the University **and/or**  the individual is carrying out work following an employee leaving the University, going on maternity leave, general shortage of staff in the team. |  |
| The individual works for several organisations and the University is not its main employer |  | The individual works for several organisations **but** the University **is** its main employer **OR** he/she works only for the University |  |
| Termination of contract can be made if there has been a breach of contract with immediate effect |  | A notice period is in place as well as policies that govern the employment process |  |
| Total |  |  |  |
|  |  |  |  |

**If in doubt complete the Employment Status Indicator Tool on HMRC’s website   
(Please right click and choose “Open hyperlink”)**

[**http://tools.hmrc.gov.uk/esi**](http://tools.hmrc.gov.uk/esi)

**(Please note that the link to the Tool is at the end of the page under “Conditions of Use”)**