

Employment Fact Sheet: Information for small employers

About this fact sheet

This fact sheet has information for people who employ one or more people but fewer than five. If you have fewer than five people working for you, you are known as a **micro employer**. You can be a micro employer if you pay someone to work in a shop or some other place of work, but you can also be a micro employer if someone works in your home – for example, a nanny, a carer, a cleaner or a personal assistant.

How do I know if I'm an employer

It's very important to know whether you're an employer because you'll have legal responsibilities towards the people who work for you. They'll be your **employees** and you'll have to make sure that they get certain rights such as sick pay and holiday pay. You may also have to register for income tax and national insurance contributions.

If you're an employer, you'll have a contract of employment with your employee. This will include whatever you and your employee have agreed between you. It's best if the contract is in writing so you are both clear about your rights and responsibilities. Also, you have to give your employees a written statement of their main terms and conditions within two months of them starting work. Both you and your employee have to stick to whatever terms and conditions you have agreed on.

However, some people you pay to do work for you might not be your employee. They might be self-employed, work for an agency, or only work for you on a very casual basis. You won't have a contract of employment with these kinds of people and you won't have the same legal responsibilities towards them.

How to tell if someone is your employee

There are rules to help you decide whether someone is your employee. These rules apply to all the jobs listed in this fact sheet. Someone is likely to be your employee if one or more of the following applies:

- you have to find work for them and can tell them what to do and how to do it, even if they are left alone to do the work
- you pay them a regular amount of money on a weekly or monthly basis rather than when they have done a particular job
- **you** have to find someone else to do the work if they can't do it for some reason, for example they're off sick. But if **they** have to find someone else to do the work, for example a sub-contractor or a friend, this probably means they're self-employed
- you're responsible for providing most of the tools, machinery and material to do the work.

Carers

A carer is someone who provides you with personal care and support in your home, usually because you're sick, disabled, or have a mental health problem. They might help you with cleaning, cooking, shopping or personal care such as washing and getting dressed. A carer can either be paid or unpaid.

If you have a carer, you won't be their employer if they aren't paid for their work. This type of carer will often be a family member, friend or neighbour.

If your carer is paid, they may be employed directly by you, by your local council or by an agency.

You may be your carer's employer if you have to find work for them and can tell them what to do and how to do it. You may also be their employer if you pay them directly for their work, even if you've been given money by your local council (**direct payments**) to pay them.

It can be very difficult to work out whether a carer is employed by you, a local council or an agency. If you aren't sure whether you're the employer, you should get advice.

Domestic servants

A domestic servant is someone employed to work in your home and carry out household tasks such as cleaning, cooking and washing. Domestic servants include **cooks** and **housekeepers**.

If the person does paid work only for you, they are likely to be your employee. However, they could still be your employee even if they work for other people as well as you.

If you have a **cleaner**, they may be your employee, but they could also be self-employed, work for you on a casual basis or work for an agency.

If you have a **gardener**, it's unlikely that they'll be your employee, unless they work only for you.

Domestic servants aren't protected by the same health and safety laws as other employees. There is no limit on the number of hours they have to work, but they are entitled to have set rest breaks on a weekly and daily basis.

Nannies, au pairs and child minders

If you have a nanny, they will probably be your employee, though they may be self-employed if they work for a number of different households. If you found your nanny through an agency, they may be the employee of the agency rather than your employee. This will depend on who is responsible for telling them what work to do.

An au pair is someone who lives in the family home and helps out with household tasks and child-care on a part-time basis in return for board, lodging and pocket money.

You usually find an au pair through an agency, but they can either be your employee or the employee of the agency. This will depend on who is responsible for telling them what work to do.

Child minders who work from their own home and are usually self-employed.

If you're not sure whether someone is your employee or not, you should get advice from an experienced adviser.

What responsibilities do you have as an employer?

If you're a micro-employer, you generally have the same legal responsibilities as other employers. This means you must:

- **not dismiss** your employee for an unfair reason
- make sure your employee gets the **sick pay** they're entitled to
- make sure your employee gets the rights they're entitled to for **maternity, paternity and adoption**
- give your employee 28 days paid holiday a year, if they work full-time. If they work part-time, they are entitled to a pro-rata amount of paid leave
- **not discriminate** against your employee because of their race, sex, disability, sexuality, religion, belief or age
- make **reasonable adjustments** to your home or workplace to allow a disabled employee to do their work
- follow **health and safety** at work regulations. This means you're responsible for the health, safety and welfare of your employee
- have **employers' liability insurance** to cover you if your employee is injured while working for you
- pay your employee the **national minimum wage**. A domestic worker may not be entitled to the minimum wage if they live with you and are treated as a member of your family
- limit the average working week of your employee to 48 hours, unless they have agreed in writing to work longer than this. This limit doesn't apply to domestic workers in a private household
- make sure your employee has the right to work in the UK before they start work. It's a criminal offence to employ someone who doesn't have the right to work legally in the UK. For more information, visit the Home Office website at: www.ind.homeoffice.gov.uk/employers/preventingillegalworking/ or ring their employer's helpline on **0300 123 4699**.

If your employee is going to work with **children** or **vulnerable adults**, you may need to get them checked through **Access NI**. You may have to do this, for example, if you found your nanny yourself, rather than through an agency. For more information, go to www.accessni.gov.uk or contact the Access NI Information Line on **028 9025 9100**.

Tax and national insurance responsibilities If you pay your employee more than £110

Contact Details:

Citizens Advice, 46 Donegall Pass, Belfast, BT7 1BS

Telephone: (028) 9023 1120 Fax: (028) 9023 6522 E-mail: info@citizensadvice.co.uk Website: www.citizensadvice.co.uk