

# Employment Status of Music Practitioners

## *Guidance for Schools*

### Introduction

Her Majesty's Revenue and Customs (HMRC) legislation states that employers, including state schools, must check the employment status of all individuals carrying out work (for and on behalf of them), including music practitioners. This process must be followed, regardless of the duration of the work undertaken.

Employment status is not a matter of choice. Schools do not have the authority to determine the employment status of music practitioners independent of HMRC legislation.

Ealing Music Service undertakes this process for its staff at the point of recruitment and, therefore, schools that buy in the services of its music practitioners are exempt from having to repeat this.

The terms and conditions of each contract (contracts of employment and services) state:

- what the work is
- where and how the work is to be carried out, and
- determine whether someone may be regarded as employed or self-employed, for taxable purposes

For further information contact payroll or go to the [HMRC](#) website.

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### How is employment status determined?

The following criteria are used as an indication only to determine employment status. In addition, the basis of payment and other surrounding financial circumstances will also be taken into account before a decision is reached.

The right, or amount of control, the school has over the music practitioner is important. The more control the school has, the more likely that the music practitioner's employment status will be that of employed, for taxable purposes. The amount of supervision and the right to direct the worker will also be taken into consideration.

- The type of work undertaken, when and how it is undertaken, will all be taken into account to determine the amount of control schools have.
- The greater the financial risk to the music practitioner, the more likely it is that employment status will be that of self-employed.
- Payment by the hour, for all hours worked, reduces financial risk to the music practitioner and it is therefore likely that employment status will be regarded as employed.
- If a fixed sum is agreed and the lessons can be subject to delay (eg music practitioner going on a performance tour), it is more likely that the music practitioner's employment status will be that of self-employed.
- Freedom for the music practitioner to hire and pay someone else to do the work for them, would suggest that employment status is that of self-employed.
- The absolute right for the music practitioner to provide a substitute to undertake the work if they were unable, or unwilling, to do the work themselves, would also suggest employment status to be that of self-employed.

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### Employment status indicators

- Indicators of music practitioner being employed
  - School has the right to fix the times and day on which lessons must be delivered, even if there is much flexibility in this regard.
  - The music practitioner supplies only his or her own portable equipment (eg personal instrument, metronome, laptop, etc) to undertake the teaching.
  - The music practitioner does not risk his/her own money and there is no possibility that they will suffer any financial loss.
  - The music practitioner is paid by the hour, day, week or month.
  - The music practitioner either has no right, or is unable, to provide a replacement to undertake lessons.
- Indicators of music practitioner being self-employed
  - Within an overall deadline, the music practitioner has the right to decide how and when to undertake the lessons, even if this is negotiated with school staff.
  - The music practitioner supplies all equipment materials (eg class set of keyboards or African drums, practice books for the children, etc) essential to undertake the lessons.
  - The music practitioner has the right to hire and pay other people to undertake the lessons in his or her absence.
  - The music practitioner is paid a fixed amount for the project, regardless of how long it takes to complete or deliver.

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SCHOOL EFFECTIVENESS