

Annual Payroll & HR Update 2017

Tuesday 7th February 2017

The Showroom, Lincoln



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Agenda

- **Welcome and Introduction**
James Pinchbeck, Marketing Partner, Streets Chartered Accountants
- **Employment Status**
Hannah Clifford, Associate Solicitor, Irwin Mitchell Solicitors
- **Legal Basics For An Employer and Introducing Streets HR**
Anita Wynne, Director, Beststart Human Resources
- **Break**
- **Apprenticeships**
Anita Wynne, Director, Beststart Human Resources
- **Payroll Update**
Theresa Waddingham, Payroll Manager, Streets Chartered Accountants
- **Lunch**



Employment status

Hannah Clifford, Associate Solicitor

Employment status: Different meanings

- **Employment law:** 3 categories
 - Employee; worker; self employed
- Test varies depending on claim and statutory definitions of limited help
- **Tax law:** 2 categories
 - Employee; self employed
- Claims against employer's insurance
 - Sufficient connection between role and wrongful conduct enough, for example ...

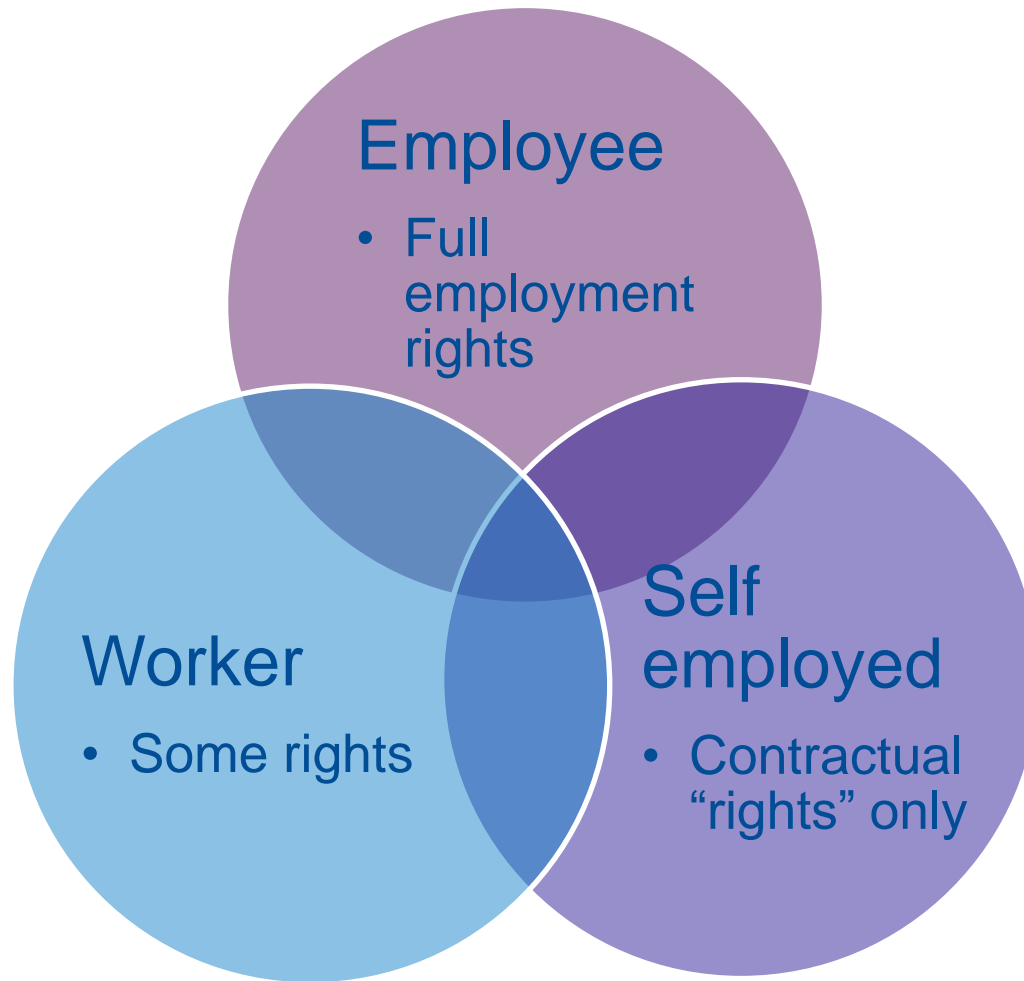
Close connection between wrong doing and employment

Judgment in case involving attack at supermarket petrol station may make it easier for customers to sue businesses

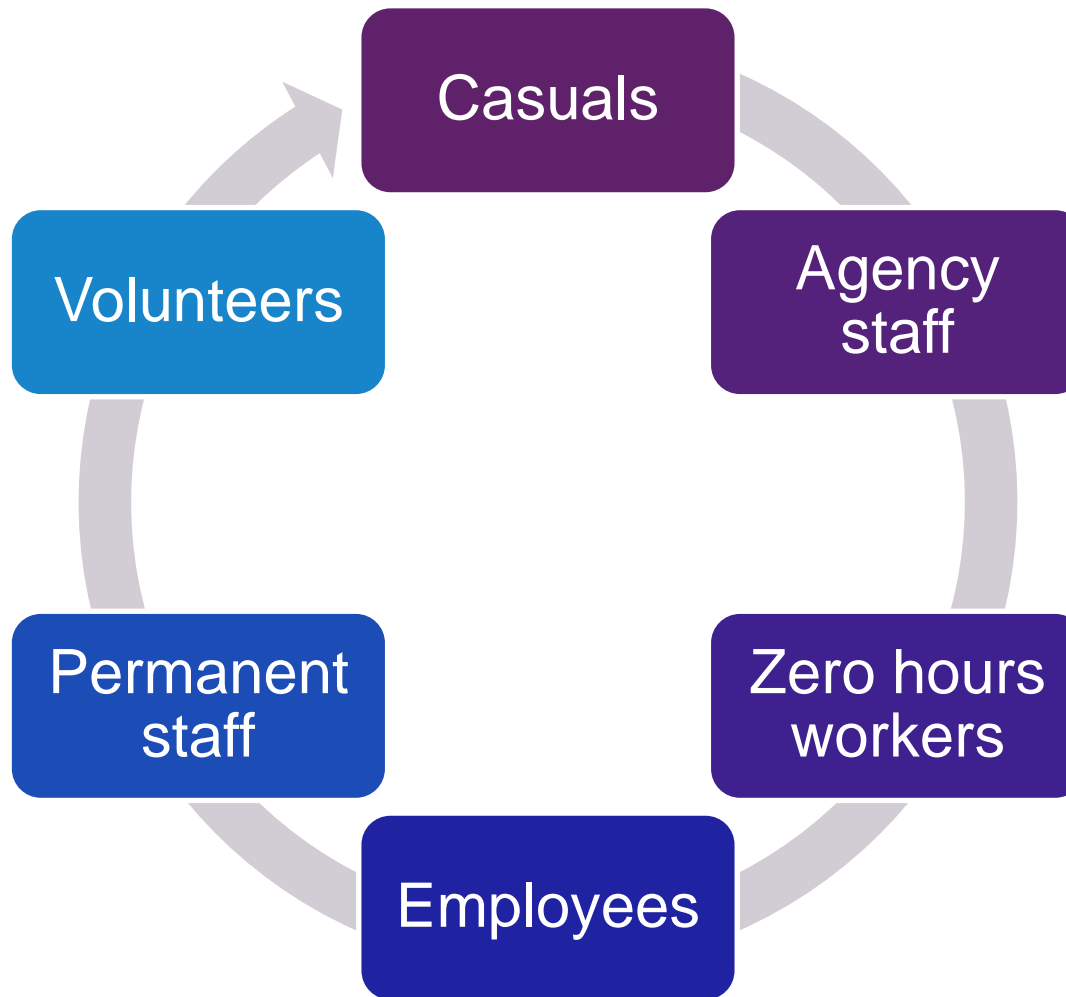


i Morrisons has been found 'vicariously liable' for the actions of a petrol station employee who assaulted a customer in 2008. Photograph: Joe Giddens/PA

Why it matters



Does it matter what title the “worker” is given?



To be an employee ... in this order



The individual must provide personal service



There must be mutuality of obligation



The employer must have control over the worker

Rights of employees

Unfair dismissal

Right to request flexible working

Family related leave and pay

Right to receive SSP and NMW

Redundancy pay

Minimum notice upon dismissal

Protection from less favourable treatment for fixed term status

Protection from discrimination

Right for paid holiday and rest breaks

Whistleblowing protection

Protection from unauthorised deductions from wages

Pension – auto enrolment

To be a worker ...



The individual must work under a contract



Provide personal service



Have mutuality of obligation

Rights of workers

Right for paid holiday and rest breaks

Protection from discrimination

Protection for less favourable treatment – part-time working

Protection from unauthorised deductions from wages

Right to receive the NMW

Whistleblowing protection

Pension – auto enrolment

To be self employed ...



No requirement to be offered or to accept work



Individual can decide when and how to work – no direct supervision



No requirement for personal service – can provide a substitute



Individual can provide services for other organisations



Paid on completion of work or in accordance with agreed schedule



Individual responsible for losses and provides own equipment/materials

The law under strain?



“Gig economy” – Uber; Deliveroo; Hermes

Self employment up 20% since 2008

(Ab)use of zero hours contracts – Sports Direct

Government review and HMRC investigations

The “Gig” economy ... headlines

Uber loses right to classify UK drivers as self-employed

Courier wins holiday pay in key tribunal ruling on gig economy

Judge decries contract and rules CitySprint must award holiday pay to cycle courier wrongly classed as self-employed



Risks – what happens if you get it wrong?

Underpaid tax,
interest and
penalties

Pension liabilities
and penalties

Underpayment of
NMW; criminal
sanctions; huge
penalties and
requirement to repay

Failure to pay
holiday
pay/redundancy and
other employment
claims

Real life scenario one



Was Miss Quashie
an employee for
the purposes of
bringing an unfair
dismissal claim?

Real life scenario two



Was Mr Belcher an employee for purposes of claiming NMW and paid holiday?

Real life scenario three



Was Mr Neufeld an employee for the purposes of claiming redundancy, notice and holiday pay from the National Insurance Fund?

Any questions



How to contact me



Hannah

- hannah.clifford@irwinmitchell.com
- DDI: 0121 214 5296
- Mobile: 07730192383
- Phone: 0370 1500 100 Extension: 5296



Employment status

Hannah Clifford, Associate Solicitor

Employing Staff – What do I need to know?

Anita Wynne, Director



Are Employees a Headache?



Image courtesy of David Castillo Dominici at FreeDigitalPhotos.net



HR. But different.

What Do I Need to Do if I Employee Staff?

- ◆ Comply with equality legislation during recruitment
- ◆ Conduct pre-employment checks – right to work in the UK
- ◆ Written contract of employment
- ◆ Pay National Living or Minimum Wage (NLW/NMW)
- ◆ Offer terms and conditions in line with statutory provisions



What Do I Need to Do if I Employee Staff? - 2

- ◆ Employer Liability insurance, Her Majesty Revenue and Customs and payroll provision
- ◆ Records and Data Protection Principles



Equality Legislation and Pre-employment Checks

- ◆ Employers must not discriminate against **candidates** at any stage of the recruitment process
- ◆ Protected characteristics - gender, race, disability, sexual orientation, religion, belief, age; pregnancy, childbirth or subsequent maternity leave; and trade union membership
- ◆ Right to work in the UK check
- ◆ Specialist checks e.g. DBS



Written Contract of Employment

- ◆ Employment Rights Act 1996
- ◆ Within 8 weeks of joining an employee has the right to a written statement or contract containing the following:
 - ◆ Name of employer & employee
 - ◆ Place of work
 - ◆ Date employment & continuous employment began
 - ◆ Scale & method of remuneration
 - ◆ Collective agreements
 - ◆ Hours of work and details of regular overtime
 - ◆ Job Title
 - ◆ Holiday entitlement
 - ◆ Sickness arrangements
 - ◆ End date if employment is not permanent
 - ◆ Pension arrangements
 - ◆ Notice period
 - ◆ Arrangements for working outside UK
 - ◆ Disciplinary & grievance rules



Statutory Terms & Conditions

- ◆ National Living Wage and National Minimum Wage
- ◆ Hours, shifts and breaks in line with the Working Time Directive
- ◆ Statutory Sick Pay
- ◆ Maternity, paternity, adoption, shared parental and emergency leave provisions
- ◆ 28 days holiday (including public holidays) – prorated for part time; fixed term; and zero hour contracts
- ◆ Workplace pension arrangements
- ◆ Statutory notice periods



Payroll – HMRC – Insurance



Images courtesy of Stuart Miles at FreeDigitalPhotos.net



Data Protection and Employee Records



Image courtesy of David Castillo Domínic at FreeDigitalPhotos.net



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Support as You Grow

STREETS HUMAN RESOURCES



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Break

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What Could An Apprentice do for Me?

Anita Wynne, Director



What is an Apprentice?

- ◆ Aged 16+
- ◆ Working and studying for a work-based qualification
- ◆ 1 to 4 years long
- ◆ New or existing employee
- ◆ Enterprise Act 2016 – only government-backed schemes will be able to use the term ‘apprentice’



What is an Apprentice?

◆ GCSE equivalent to degree

- ◆ Agriculture, horticulture & animal care
- ◆ Media & publishing
- ◆ Accountancy
- ◆ Financial planning
- ◆ Law
- ◆ Customer services
- ◆ Information & communication technology
- ◆ Construction
- ◆ Team leading & management
- ◆ Education & training
- ◆ Health, public Services & care
- ◆ Business administration
- ◆ Retail & commercial enterprise
- ◆ Driving goods vehicles
- ◆ Engineering & Manufacturing Technologies
- ◆ Sales



How to Hire an Apprentice?

- ◆ Select an apprenticeship standard and level that works for your organisation
- ◆ Identify a training provider
- ◆ Advertise your apprenticeship vacancy
- ◆ Enter into an apprenticeship agreement



Apprentice Terms & Conditions

- ◆ Specific National Minimum Wage rates – the time an apprentice is training must also be paid whether at work or at college
- ◆ Must work more than 16 hours per week – usually 30
- ◆ All other terms and conditions must be the same as other employees



Apprenticeship Levy – does it apply to me?

- ◆ Levy introduced on 6 April 2017
- ◆ Only applies to UK businesses with an annual payroll bill over £3 million.
- ◆ 0.5% of your pay bill, on which there is a liability to pay secondary Class 1 NICs. Government will apply 10% top-up.
- ◆ Levy paid into an account to be used to pay for apprenticeship services and training



Apprenticeship Levy – does it apply to me?

- ◆ For non-levy paying businesses, companies will pay 10% of training fees and government fund remaining 90%.
- ◆ Additional financial support for those employing 16-18 year olds
- ◆ Launch of Digital Apprenticeship Service



Any Questions?



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Get in touch

T 01438 747 747

E enquiries@beststarthr.com



[@beststarthr](https://twitter.com/beststarthr)



www.linkedin.com/company/beststart-human-resources



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Payroll

Theresa Waddingham

Payroll Manager

Email: twaddingham@streetsweb.co.uk



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Payroll

- Apprentices – NIC and NMW
- Benefits in Kind – through payroll
- Shared Parental Leave – brief overview
- Holiday Pay – entitlement and calculation
- Digital Tax – impact of Real Time Information
- Forward Planning – director remuneration
- Key changes for 2017

Apprentices

- Evidence – start dates, written agreement
- National Minimum Wage – dates and consequences
- HMRC – NMW compliance check
- National Insurance Category – employer NIC incentive

Benefits in Kind – Payrolling

- HMRC PAYE government gateway registration - <https://www.gov.uk/payee-online/enrol>
- Registration - <https://www.tax.service.gov.uk/gg/sign-in?continue=/payrollbik/payrolled-benefits-expenses>
- When you need to register

Benefits in Kind – Payrolling

- Benefits unable to payroll
- April 2018 –payrolling car and fuel benefit information included in FPS
- Cost/benefit implications
- Trivial Benefits

Shared Parental Leave/Pay

Key Points

- Mother gives binding notice of intention
- mother ends maternity leave/pay
- eligibility i.e. SMP SAP MA
- First two weeks of maternity compulsory
- Employee must give 8 weeks notice of leave dates.
- Both parents can utilise

Holiday Pay

- ACAS Holiday pay booklet link:
<http://www.acas.org.uk/?articleid=806>
- NMW implications of averaging holiday pay
- Employee queries and disputes

Digital Tax and Real Time

- Digital Tax phasing from April 2018
- HMRC instant data
- Personal Tax Account
- Scottish Tax

Planning Ahead

- Director's remuneration and PAYE/NIC
- Qualifying Years for state pension
- State Pension Forecast and Personal Tax Account

Key Changes/Issues for 2017

Apprenticeship Levy

- £3 million Annual Pay bill
- Connected companies
- Levy Allowance

Gender Pay Gap Reporting

- 6 April 2017 due by 4 April 2018
- 250 + employees
- Bonus included in calculation
- Complex mean and median calculations

Key Changes/Issues for 2017

Tax Free Childcare

- Existing Scheme
- New Scheme

CIS suffered – how to obtain refunds

Automatic re-enrolment and re-declaration of compliance

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