

Self Employed Staff and Community Buildings Management Committees

Community buildings committees must take employment issues very seriously and make themselves aware of HM Revenue and Customs rules and regulations.

Committees must register and declare income paid to individuals. If they don't they are likely to find themselves liable for unpaid tax, which could go back six years. If the cleaner is truly self-employed the hall will not be responsible for the individual's tax or National Insurance liability. However, if the individual is not self-employed the hall will be responsible.

The community buildings management committee should work through the following:

1. Check that the individual concerned satisfies the HMRC's criteria for a self-employed person. As a broad generalisation, it is possible to apply these criteria as a basic rule of thumb – provided they are applied not to the person but to each particular set of work commitments.

HMRC criteria are that self-employed people:

- take risks with their own money in taking on the work – for example, they cannot demand extra payment if the work takes longer than originally planned.
 - are able to engage others to do the work on their behalf
 - can decide where, when, and how the work is done (dependent on circumstances – for example a self-employed bricklayer will not be able to decide where a wall is to be built, but may be able to decide whether the work is done on a Tuesday morning, Thursday evening or Saturday afternoon).
 - have to put right unsatisfactory work in their own time and at their own expense; and
 - provide their own equipment.
2. Ask the individual for evidence that they are registered self-employed with HMRC. They should have a tax reference. If they fail to do so, contact HMRC.
 3. Ask the individual what their payment terms are i.e. weekly, monthly, an annual amount and how the individual expects this to be paid.
 4. Ask the individual what equipment and materials they will supply to do the job and what they may charge extra for? If the individual is truly self-employed they will provide all their own equipment and materials.
 5. Insurance cover: there are two issues here – the liability of the committee to the self-employed person who is injured when working at the building; and the liability of the self-employed person to the village hall and to others at the hall.

5.1 If the self-employed person is injured when working at the building due to the committee's negligence, the committee must check that the community building's insurance will cover such liability because the community building will be liable.

5.2 With regard to the liability of the self-employed person to the community building and to others at the building, ask the individual for evidence that they have public liability insurance to carry out the work required. The community building management committee may need to explain that the individual needs their own public liability cover in case they

leave the floor wet, someone slips or their equipment causes a fire. The individual may believe that their ordinary household insurance covers them, but they must check. **The individual must not be allowed to work at the hall if they cannot provide evidence of public liability insurance.**

6. Ask the individual to give you their written terms of business. This should contain all the information requested in points 1 to 5 above. If it is a new or fledgling business then the individual may need to take professional advice.
7. It is not the role of the hall to issue a contract but they may wish to set out a list of the work they expect to be done and when etc. If there is no formal written contract the hall should write to the individual agreeing the individual's terms of business and include this list. That letter will be contract for service.
8. Contact the HMRC Employer Helpline 0300 200 3200 if you have any concerns or queries.
9. Although the cleaner may not be an employee, the committee still owes a duty of care to them and must comply with health and safety law.

This short guide has been produced by ACRE (Action with Communities in Rural England) to assist community buildings management committees. Although every effort has been made to ensure its accuracy it must be emphasised that it is not a substitute for advice from HMRC.