

Surviving the crunch: is self employment the answer?

Already some firms have responded to the current economic conditions by reducing overheads and making staff redundant.

Over the last twenty years or so many more people have acquired self employed status. Is this now about to rise further?

For employers, using self employed workers has several financial and practical advantages

- Self employed workers are responsible for their own tax and N.I payments so employers do not have to be involved with this
- Employers owe a lower standard of care to workers who are not employees
- If a self employed worker is negligent while working, for instance a delivery driver knocks over a pedestrian, the employer will not be liable (if the driver had been an employee the employer would have been liable)
- Employers have fewer statutory obligations to self employed workers: no liability for unfair dismissal, redundancy or maternity leave, no written particulars of employment as would be required for employees

For workers, being self employed gives the freedom to decide their own hours of work and make individual lifestyle choices. They can use the fact that employers may prefer to buy in hours rather than commit themselves to recruiting an employee, especially if they have a skill which is in demand.

There is always a downside.

For employers, statute now protects self employed workers in many areas not previously covered.

- Working hours regulations apply to the self employed
- There is less scope for laying off workers during slack periods
- Discrimination laws and minimum wages apply
- The self employed can even sometimes claim paid holiday

Also, there is a risk that even if the contract stipulates that a worker is self employed, in any dispute a tribunal can take all the facts into account and may decide that the legal status of the worker is employee after all.

For workers,

- The very extensive statutory protection given to employees is a lot to give up. For instance, if there is an accident at work, they may be unable to claim compensation
- They take on the risks and responsibilities which an employer would otherwise do, both financial and to comply with the law e.g. tax records
- They may need to provide their own tools and equipment and maintain these
- They have fewer welfare benefits e.g. sick pay

Some will protect themselves by setting up a limited company through which they can offer their services, but must then comply with complex company law legislation

If you need more information on this or other employment law matters you may find the following websites useful:

www.acas.org.uk

www.delni.gov.uk

or feel free to contact us at

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