



GLAA Brief

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How the GLAA tests employment status

This Brief updates Brief 18 and explains how the GLAA tests a worker's employment status.

Introduction

Through its inspection process, the GLAA checks the employment status of workers in the regulated sectors to ensure that licence holders comply with the Authority's Licensing Standards. The GLAA will check employment status to identify whether a person is genuinely "self-employed", a "worker" or an "employee".

We conduct these checks because:

- some licensing standards apply to all individuals regardless of employment status.
- some licensing standards only apply to those individuals who are a worker or an employee.

Further guidance on the different types of employment status is available on GOV.UK:

<https://www.gov.uk/employment-status>

How the GLAA examines employment status

During an inspection, the GLAA Inspector will first establish the terms of engagement the licence holder has with the worker. They will then consider whether the documents reflect the true agreement between the parties, and whether the reality of the relationship between the worker and licence holder reflects the wording of the contract.

In order to do this, GLAA inspectors will ask to see worker contracts and they may then interview a sample of workers in addition to the licence holder and labour users. Those interviews will explore the reality of the employment relationship and look at the way that the workers carry out their duties and the way in which they are treated.

Questions the GLAA may ask to determine employment status

A GLAA inspector will ask a range of questions, including those listed below. Answering "yes" to these questions indicates that the individual should be considered at least as a "worker" and not "self-employed":

- Is the individual subject to control and supervision?
- Is the individual told where to work, how to do the work and moved to different tasks as required?
- Must they perform the work themselves?

The Inspector may also ask further questions as detailed below. Answering “no” to these questions indicates that the individual should be considered at least as a “worker” and not “self-employed”:

- Can they refuse work that is offered to them?
- Can they choose their own working hours?
- Can they/are they required to send a substitute if they do not work?
- Has this substitution ever occurred? If not, could this realistically take place?
- Does the individual take any financial risk?
- Does the individual have to rectify faulty work/make good loss or damage in their own time at their own expense?
- Has the individual negotiated his/her terms and conditions?
- Has the individual provided any of his/her own equipment or tools to perform the work?

The GLAA Licensing Team will review the evidence gathered during the inspection to determine whether there has been compliance with the Licensing Standards as part of making a licence decision.

HMRC will check employment status for tax purposes. You can find more information regarding their process here: [Check Employment Status for Tax \(CEST\): 2019 Enhancement Summary - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/check-employment-status-for-tax-cest-2019-enhancement-summary).

You can carry out a check to see if your workers should be classed as employed or self-employed for tax purposes here: [Check employment status for tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/check-employment-status-for-tax).

You may also need to understand the off-payroll working rules (IR35) if you supply workers who provide their services through their own limited company, or other intermediary, to the end client. You can find out more about the IR35 rules here: [Understanding off-payroll working \(IR35\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/understanding-off-payroll-working-ir35)

Further information

If you any further queries, please contact the GLAA helpline on 0345 602 5020 or email licensing@gla.gov.uk.

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