**Employing Staff**

**Introduction**

If you are employing someone in a paid capacity and you will be responsible for paying their tax (known as PAYE), then it is likely that they will have an employment contract with you.

An employee (the person working for you) and an employer (you/the diocese who gave them the job) must stick to a contract until it ends (e.g. by an employer or employee giving notice or an employee being dismissed) or until the terms are changed (usually by agreement between the employee and employer).

# Accepting a Contract

As soon as someone accepts a job offer (either verbally or in writing) they have a contract with you. An employment contract **doesn’t** have to be written down. The job offer will have terms of what the job entails and sets out the employer’s responsibilities and the employee’s obligations.

## Contract terms

A contract is an agreement that sets out an employee’s:

* employment conditions
* rights
* responsibilities
* duties

The terms can be held in various documents such as:

* in a written contract, or similar document like a written statement of employment;
* verbally agreed;
* in an employee handbook or on a notice board viewed by all;
* in an offer letter from the employer;

These are normally **explicit terms** – terms that must be in a contract and are normally governed by an employment law.

Then there are **implied terms** - automatically part of a contract even if they’re not written down. Some examples include:

* no theft from each other - employees not stealing from their employer;
* the employer providing a safe and secure working environment;
* something necessary to do the job like a driver having a valid licence.

If there’s nothing clearly agreed between you and your employees but it’s something that the diocese has been doing for years, e.g. paying a small Christmas bonus each year, this may be an implied term and form part of your employment contract.

## Written statement of employment particulars

An employer must give employees a ‘written statement of employment particulars’ if their employment contract lasts at least a **month or more.** This isn’t an employment contract but will include the main conditions of employment.

The employer must provide the principal statement on the first day of employment and the wider written statement within 2 months of the start of employment.

## What a written statement must include:

A written statement can be made up of more than one document (so you can have the contract and also have a staff handbook or various policies that form part of the contract). If you choose to do this, the written statement/contract must include as a minimum:

* your diocese name;
* the employee’s name, job title or a description of work and start date;
* if a previous job counts towards a period of continuous employment, the date the period started. If not, it should state that the period of continuous employment starts with the current contract;
* how much and how often they will get paid;
* hours of work and days of work- if overtime is paid;
* how many days of holiday entitlement they get and if that includes public holidays;
* where an employee will be working and if the job require travel/overnight stays;
* whether the job is permanent or temporary. If temporary the end date should be stated and if the contract would be extended;
* notice period;
* if there are any collective agreements in place;
* if they have a right to pensions;
* name of their line manager and who to go to with a grievance;
* details of the disciplinary procedure, including the appeals procedure.

## What a written statement doesn’t need to include

The written statement doesn’t need to cover the following (but it must say where the information can be found – this is where you can refer your employees to a staff book or a set of procedures/policies):

* sick pay and procedures
* disciplinary and dismissal procedures
* grievance procedures

# Fixed-Term Contracts

Most dioceses may have employees who are working various fixed term contracts. Employees on fixed terms should get:

* the same pay and conditions as permanent staff
* the same or similar perks as permanent staff
* information about any permanent vacancies that arise in the diocese.

Anyone who’s worked continually for you for two years or more will have the same redundancy rights as any of your permanent employees. Therefore a contract not being renewed will be seen as a dismissal and the procedure for dismissal followed.

Fixed-term contracts will normally end automatically when they reach the agreed end date. Whilst you legally do not have to give any notice, it is best practice to inform the person on the fixed contract at least month before the end of the contract that the contract will not be renewed.

Workers have the right to not to be unfairly dismissed after two years’ service and to a written statement of reasons for not renewing the contract (after one year’s service).

***Note*** - they may be entitled to statutory redundancy payments after two years’ service if the work ends unexpectedly so it’s important to think through carefully how long you want the person in the diocese.

If an employee continues working with you past the end of a contract without it being formally renewed, there’s an ‘implied agreement’ that the end date has changed and you may need to issue a new contract to the employee/worker.

***Note*** - any employee on a fixed-term contract for four or more years will automatically become a permanent employee when their contract is renewed or they are given a new contract.

# Worker or an Employee?

All employees are workers, but an employee has extra employment rights and responsibilities which don’t apply to workers who aren’t employees.

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| --- | --- |
| **Workers** | **Employees** |
| * Work irregular hours - they occasionally do work for a specific business
* You don’t have to offer them work and they don’t have to accept it – they only work when they want to
 | * Have a contract of set hours and days over a specified time or no end date and they expect to be paid for this work.
* They only work for you or if they do have another job, it’s completely different from the work they do for you.
* Their contract, statement of terms and conditions or offer letter uses terms like ‘employer’ and ‘employee’
* They are entitled to employment rights like maternity pay or redundancy pay that require a minimum length of continuous employment before qualifying for them. An employment contract may state how long this qualification period is.
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|  |  |
| --- | --- |
| **Workers** | **Employees** |
| **Have the right:** | **Have the right:** |
| To be paid the national minimum wage and protection against unlawful deductions from their pay  | To be paid the national minimum wage and protection against unlawful deductions from their pay  |
| To the statutory minimum level of paid holiday and minimum rest breaks  | To the statutory minimum level of paid holiday and minimum rest breaks  |
| Not to work more than 48 hours on average per week or to opt out of this right if they choose  | Not to work more than 48 hours on average per week or to opt out of this right if they choose  |
| To protection against discrimination if they report anything they think is wrong in the diocese(known as whistle blowing)  | To protection against discrimination if they report anything they think is wrong in the diocese(known as whistle blowing)  |
| Depending on the level of their contract and hours, to be entitled to statutory maternity pay, paternity pay, or statutory sick pay  | Depending on the level of their contract and hours, to be entitled to statutory maternity pay, paternity pay, or statutory sick pay  |
|  | To statutory sick pay, maternity, adoption and paternity pay and leave  |
|  | To minimum notice periods if their employment will be ending (e.g. if an employer is dismissing them)  |
|  | To protection against unfair dismissal  |
|  | To request flexible working, time off for emergency needs |
|  | To statutory redundancy pay  |

# What is the National Living Wage and the National Minimum Wage?

These rates are for the National Living Wage (for those aged 23 and over) and the National Minimum Wage (for those of at least school leaving age). The rates change on 1 April every year.

## Current rates

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| --- | --- | --- |
| Year | National Living Wage | National Minimum Wage |
| 23 and over | 21 - 22 | 18 - 20 | Under 18 | Apprentice |
| April 2021(Current Rate) | £8.91 | £8.36 | £6.56 | £4.62 | £4.30 |
| From April 2022 | £9.50 | £9.18 | £6.83 | £4.81 | £4.81 |

# PAYE

If you employ staff, you normally have to operate PAYE as part of your payroll. PAYE is HM Revenue and Customs’ system to collect Income Tax and National Insurance. You don’t need to register for PAYE if none of your employees are paid £120 or more a week, get expenses and benefits, have another job or get a pension. However, you will need to keep payroll records.

More information is available at: <https://www.gov.uk/paye-for-employers>

Basic PAYE Tools is free payroll software from HM Revenue and Customs for organisations with fewer than 10 employees. Details can be found at: <https://www.gov.uk/basic-paye-tools>

**Running the PAYE Scheme**

If you operate a PAYE scheme, you will need to run the payroll monthly and report to HMRC. See below for more information:

<https://www.gov.uk/running-payroll>

**Paying PAYE and National Insurance to HMRC**

Depending on the frequency of making payments (monthly or quarterly), you will have to make the payments to HMRC before their payment deadlines to avoid paying interest on payments due. See below for more information:

<https://www.gov.uk/pay-paye-tax>

# Holiday Entitlement

Almost all workers and employees are legally entitled to 5.6 weeks paid holiday per year (known as statutory leave entitlement or annual leave). The statutory entitlement minimum is 28 days per year (20 days plus 8 bank holidays).

**Other aspects of holiday entitlement**

Workers and employees have the right to:

* get paid for leave when accrued;
* build up holiday entitlement during maternity, paternity and adoption leave or when sick (depending on the type of contract and/or length of service). You should then discuss with them when it would be reasonable to take the leave.

For more information, please visit <https://www.gov.uk/holiday-entitlement-rights>

# Pensions

Since October 2012, all employers must by law offer a workplace pension scheme.

The law means that every employer must automatically enrol workers into a workplace pension scheme if they:

* are aged between 22 and the current state pension age
* earn more than the current minimum wage
* work in the UK

This is called ‘automatic enrolment’.

There are income based thresholds for automatically enrolling your employees.

Further information can be found at: <https://www.thepensionsregulator.gov.uk/en/business-advisers/automatic-enrolment-guide-for-business-advisers/automatic-enrolment-earnings-threshold>

# National Employment Savings Trust (NEST)

NEST was set up by the government so that every employer has access to a workplace pension scheme that meets the requirements.

Further information can be found at: <https://www.nestpensions.org.uk/schemeweb/nest.html>