

# EMPLOYING WORKERS

There are a number of legal obligations on groups that employ people and the law is constantly changing. Check before you take action. Before employing workers (or making funding bids to do so), groups should find answers to the following questions:

- ◆ what job needs doing?
- ◆ what tasks are involved in detail?
- ◆ what knowledge, skills and experience are needed?
- ◆ what salary is appropriate?
- ◆ will the salary be fixed or with increases (increments)? (local government scales are helpful)
- ◆ is the job fixed term or ongoing?
- ◆ what other terms and conditions apply e.g. worksite,
- ◆ holiday, sick leave, redundancy, grievance and conditions? (some of these are now legal requirements)
- ◆ what are the associated costs e.g. 'on-costs' like Employer's National Insurance and pension, and 'overheads' like premises costs, insurance, travel, training, telephone, postage, stationery?
- ◆ who will provide administrative and financial support, including calculating wages?
- ◆ who is going to supervise the worker and how?
- ◆ are there policies or guidelines you want the worker to follow e.g. equal opportunities?



The Chesterfield and North East Derbyshire Council for Voluntary Service and Action Limited  
Reg Office: No.1 Rose Hill East, Chesterfield, S40 1NU,  
Tel/Fax 01246 274844  
E - mail: [info@linkscvs.org.uk](mailto:info@linkscvs.org.uk)  
[www.linkscvs.org.uk](http://www.linkscvs.org.uk)

**BE ABSOLUTELY CLEAR WHO THE LEGAL EMPLOYER IS:** this will be the governing body of the group e.g. the Board, Management Committee or Steering Group unless the worker is seconded (transferred temporarily) from another agency. Remember **ALL** board or committee members will have joint and several (collective and individual) liability if any employment or other laws are broken. Ignorance is not a defence to a legal claim so seek advice from Links **BEFORE** employing workers.

**FIND OUT ABOUT LAWS AND REGULATIONS AFFECTING EMPLOYMENT, HEALTH AND SAFETY, DISCRIMINATION ON THE GROUNDS OF RACE, SEX AND DISABILITY - AND REMEMBER THAT THE HUMAN RIGHTS ACT COULD BE USED FOR OTHER FORMS OF DISCRIMINATION. FIND OUT ABOUT HMRC AND NATIONAL INSURANCE DUTIES.**

There are also requirements to check immigration status. Ask Links for advice on all these.

Common mistakes made by groups who don't realise they **ARE** employing people:

- thinking people aren't employees because they are paid out of petty cash;
- treating people as "volunteers" and paying them a fixed allowance as "expenses" - a fixed allowance is treated by HMRC as a wage;
- thinking people are freelance or self-employed when HMRC wouldn't agree;
- forgetting that sessional workers and temporary staff are employees;
- paying a committee member to do work - you may have turned them into employees;
- assuming that the agency doing your payroll e.g. a local authority or PCT, is the employer.

It is important to think all this through **BEFORE YOU TAKE ON A WORKER.**

**Links can provide more information, help and advice. Contact us if you need any further assistance.**

Links believes that this information is correct at the time of publication, however details may change. You are advised to contact Links for the up to date position and seek legal advice where appropriate.

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20/02/2016