

Nannies & Self-Employment

Whether someone is employed or self-employed depends on the terms and conditions of their work.

How to determine employment status

A worker is probably considered employed if they:

- have to do the work themselves
- can be told at any time what to do, where to carry out the work or when and how to do it
- work a set amount of hours
- can be moved from task to task
- are paid by the hour, week or month
- can be paid overtime or receive bonus payments

A worker is probably considered self-employed if they:

- can hire someone else to do their work or engage helpers at their own expense
- risk their own money
- provide the main items of equipment needed to do their job, not just the small tools that many employees provide for themselves
- agree to do a job for a fixed price regardless of how long the job may take
- can decide what work to do, how and when to do the work and where to provide the services
- regularly work for a number of people
- have to correct unsatisfactory work in their own time and at their own expense

** Please note that these lists are not exhaustive.*

In most cases nannies do not meet HMRC's criteria for self-employment and are classed as an employee. Therefore it is normally the employer's responsibility to contact HMRC, register as an employer, operate a PAYE scheme on their nanny's behalf, pay any Tax and NI due and abide by UK employment law.

The child carers that often do meet the self-employment criteria are childminders and maternity nurses.

It is important that both parents and nannies know the nanny's employment status as it affects employment and rights to statutory benefits, and how to pay Tax and National Insurance Contributions. Whether a worker is employed or self-employed should be clearly stated in the nanny's contract or written statement of the terms of employment.

The exception to the rule

In some circumstances HMRC may grant self-employment status, for example, if the nanny works in a series of temporary positions or if the nanny works in a share arrangement and cares for the children from three or more families all at the same time. In the case of a share with 3 or more families, it is UK Childcare Law and an Ofsted requirement that she registers on the compulsory Childcare Register (and Early Years Register, if applicable) as a childminder. Obviously as a childminder, she can then be classed as self-employed if desired.

Transfer of employment status from one nanny job to another

If a nanny starts a new job having previously been self-employed, it is advisable that her new employer contacts HMRC and requests confirmation in writing that their self-employment status still applies in the new position.

The transfer of self-employment status between jobs is not automatic, and each situation should be considered individually. This is the employer's responsibility, and if written confirmation from HMRC is not sought and it later comes to light that the carer is not self-employed, then it is the employer, not the carer who will be pursued for unpaid taxes.