

Employing shared staff



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If you are thinking of collaborating by sharing employees with another organisation you need to understand the two options – secondments and joint employment contracts. Here we look at the differences between them.

Secondments

Secondments involve one employer ‘loaning’ an employee to a ‘host’ employer.

The employer does not change, and the employee continues to be paid as normal. Their employment does not transfer. The employee usually – but not always – returns to the employer following the secondment.

Written agreements, setting out the practical arrangements and obligations, should be put in place between the employer, the host and the employee.

Whether there is a genuine secondment depends on the written terms – and on the way the employee is treated by the employer and the host.

Note that any payment the host makes to the employer will generally be subject to VAT, because HMRC will consider there to be a supply of services. There is a useful HMRC

concession that – in some circumstances – can allow the loan of staff from one charity to another to be treated as outside the scope of VAT. But as with all VAT rules, the devil is in the detail: you should seek advice on whether it might help you.

If you do have to pay VAT, this will add a significant cost – so another option might be to enter into a joint employment arrangement.



Joint employment contracts

Under these arrangements, the employee is employed by more than one organisation.

Their employment contract must specify that there is more than one employer and who the employers are: the employers must be named as joint employers.

To avoid uncertainty and misunderstanding, joint employers should set out in the employment contract or otherwise in writing the obligations that each employer has to the employee, and the obligations the employee has to each employer.

It is essential that the management of the employee reflects the joint nature of the arrangement and the work they do. Each employer must manage the employee in respect of the work that the employee does for that employer. This division of management should extend to all of the employee's rights and obligations. This can be difficult where there is no natural line manager within the second employer.

One employer can act as the paymaster and pay the employee's salary, NICs, pension contributions and so on. The reimbursement of the share of those costs by the other employer is treated as a disbursement and so is not subject to VAT.

The benefits of joint employment include greater flexibility and cost savings. But there are also pitfalls. First you have to persuade the employee to accept joint employment. There are practical, everyday issues around which employer's processes and procedures apply, as well as management and termination. You will also need a bespoke employment contract.

The appropriate option in each case will depend on business need and practical reality. Please do contact us for further advice.



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