



## **VISITING SPEAKERS' POLICY**

Approved and signed by the Board of Trustees by virtual meeting

**14.06.21**

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**NOVEMBER 2016**

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## CHANGES

**November 2016** Policy adopted from PCC guidelines and approved by the Board of Trustees

**May 2017** Amendments to Supplier Employment Status Questionnaire approved by the Board of Trustees, in line with new guidance from HMRC

**May 2021** Reviewed and minor amendments made

## POLICY STATEMENT

Discovery Multi Academy Trust (the MAT) pays full regard to current DfE guidance 'Keeping Children Safe in Education 2020' and 'The Prevent Duty' (2016). We ensure that all appropriate measures are applied in relation to everyone who works in the MAT who is likely to be perceived by the children as a safe and trustworthy adult, including volunteers and staff employed by contractors.

Together with the MAT's Safeguarding Policy this document provides information on the procedures that are followed when visiting speakers come to each academy.

The following actions are undertaken:

- Any visiting speaker invited by the school needs approval by the Head of School. For this process, a clear understanding must be had as to why this speaker has been chosen, what they will discuss with the children and whether safeguarding checks have been made;

- A Visiting Speakers' Request Form (Appendix I) should be completed by the member of staff as soon as possible and provided to the Head of School, which will contain information about the content of the presentation;
- On arrival the visitor will be asked for ID which includes a valid DBS. All visitors are requested to read our safeguarding notice and Section I of 'Keeping children safe in Education 2020'. If there is not a valid DBS then the visitor must be accompanied at all times; the visitor will then be given a colour coded lanyard indicating this.
- If there are any concerns about what a visitor has said or done, during their time in school, then these should be passed on to the Head of School immediately.

## **EMPLOYMENT STATUS - EMPLOYED OR SELF-EMPLOYED?**

The following guidance applies to payments to individuals or sole traders.

It does **not** apply:

- where payment is to organisations- limited companies, partnerships, charities, trusts, clubs, public sector bodies etc.- normal purchasing processes apply;
- where individuals are appointed as "office" holders under statutory requirements for example School Improvement Partners, National Challenge Advisors or similar roles. These individuals must be paid via payroll even if they have their own limited company;
- entertainers, musicians, actors – special rules apply; please check with the MAT Finance Team.

## **GUIDANCE FOR ENGAGING INDIVIDUALS**

### **WHY IS EMPLOYMENT STATUS IMPORTANT?**

Whenever the MAT engages the services of an individual, HM Revenue and Customs (HMRC) requires that a decision is made regarding their 'employment status', i.e. whether the individual should be treated as self-employed or as an employee. Naturally, this has implications for any payments the MAT makes. In particular, when it is determined that the individual is to be regarded as an employee, deduction of income tax and national insurance is made from payments through the payroll system. This is obviously the case for staff with a contract of employment, but it does also apply to other people who undertake work for the MAT without such a contract.

HMRC are very clear that an assumption of self-employment cannot be made, even where the individual has been treated as self-employed previously. The following quotes are taken from their web site:

"It is a general requirement that those wishing to take on workers consider the terms and conditions of a particular engagement to determine whether the worker is an employee or self-employed."

"Just because a worker is self-employed in one job, doesn't necessarily mean he or she will be self-employed in another job."

Deciding whether an individual can be treated as self-employed or not is sometimes contentious, particularly with the individual concerned, who may regard a previous decision of self-employment as sufficient to support similar treatment on subsequent engagements. However, the following points are useful to bear in mind:

- It is the responsibility of the employer and not the individual to ensure that appropriate tax and National Insurance (NI) deductions are made;
- If an individual is treated as self-employed and HMRC discover, when auditing, that this is an error the MAT would become liable for the tax and NI that should have been deducted. Dependent on the extent of any transgression, fines and interest could also be imposed. If a person is treated as self-employed and the decision is later reversed, it is very difficult to then recover the tax and NI that should have been deducted. However, if a person is treated as employed and this decision is reversed, it is relatively simple to refund the tax and NI.

## **WHAT DO I NEED TO DO?**

The following advice applies whenever you are considering engaging an individual, except:

- Where the engagement will be through the normal recruitment process;
- Where the individual is to be involved in work of a construction nature and has a valid Construction Industry Scheme (CIS) registration– normal purchasing procedures apply.

In all other cases, these are the steps you should take:

Before you engage someone:

- Consider the usual standing orders and financial regulations. The MAT Finance Team can provide more information in relation to this;
- Make sure you have a defined contract or service level agreement prepared prior to the engagement that will govern the work that will be undertaken and include the requirements for Public Liability Insurance. This will help to make sure there is agreement on what is required, but it will also help to determine whether the work is to be treated as employment or not.

Once you have decided on your intention to engage an individual:

- Make sure you inform the individual you are engaging that you must complete the employment status process. You may wish to use the Employment Status Questionnaire (ESQ) which you will need their help to complete and both of you are required to sign it. This will provide you with most of the information you will need to use the HMRC on-line employment status indicator tool. They must also be told that completion of the questionnaire is no guarantee of self-employment status.

If the employment status has been determined as:

- **Self employment** - you can follow your usual purchasing process. If applicable, future payments to this individual for the same kind of work would also be paid without deductions. If the engagement changes or becomes on-going it is likely that the status will change to that of employee;
- **Employee**- you should go through the normal recruitment processes subject to the usual budget and establishment requirements. Payment will be made via payroll with the deduction of tax and NI.

## WHAT IF THE INDIVIDUAL IS UNHAPPY WITH OUR DECISION?

- It is important to note that this process has been developed in line with HMRC guidelines, and that a similar process is in place in all schools and local authorities (indeed all organizations should work on this basis). You must impress on the individual that it is not an optional activity;
- If the individual disagrees with the decision, ask them to write to a nominated person at the school giving their reasons for disagreeing, and ask them to include any supporting evidence that did not form part of the original questionnaire.

## WHERE CAN I FIND OUT MORE?

HMRC guidance on employment status can be found at [www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm)

Source document:

Plymouth City Council – “HR Employment Status Process – Schools”

## GUIDELINES AND QUESTIONNAIRE FOR SCHOOLS

Please read carefully prior to engaging individuals to undertake work.

Schools are obliged to assess the employment status of all individuals it engages, to determine if payment(s) should be subject to tax (PAYE) and National Insurance (NI) deductions (employees and employers). HM Revenue and Customs (HMRC) expect the School to rigorously check the tax status of individuals and if they find that individuals should have been paid through payroll they pursue employers for any unpaid Tax and NIC's plus interest and penalties.

These guidelines will assist with determining the tax status of an individual undertaking work for you. In some cases a temporary employment contract will be deemed as the appropriate method of payment to ensure compliance with HMRC regulations. As set out in the Financial Regulations, in the majority of cases, and almost invariably in relation to teaching, HMRC will view an engagement as employment.

**Note:** Some individuals are appointed as statutory "Office" holders and must be paid via Payroll even if they are limited company. These include School Improvement Partners and National Challenge

Advisors. Similar "offices" may arise in the future. Where applicable this does not affect their 'independence' as they are not employees in the normal sense.

## **WHAT TO DO NEXT**

The school has adopted a two stage procedure to define the employment status of a service provider. This consists of a written Employment Status Questionnaire (ESQ) which needs to be completed by the engager with information from the proposed service provider - both parties sign the completed document. This is then used by the engager to carry out an on-line employment status for tax check on the HMRC website. The ESQ has been designed to ask the key questions that the HMRC use in determining employment status for tax of individuals undertaking specific work. The answers cannot be taken as conclusive evidence of employment status for tax and further information may be required.

The answers provided in the ESQ, together with other factors including the terms of the planned contract for these services and the type of duties to be performed, will assist you in completing the HMRC's on-line tool.

The tool will determine whether the employment tax status and the results should be printed and kept with the ESQ in an accessible place as they will be audited periodically.

## **EMPLOYMENT STATUS**

HMRC broadly defines employment as:

- A person who is engaged to provide a **contract of service**.

And defines self-employment as:

- A person providing a **contract for service**

There is no statute law in place to determine status.

## **CASUAL, OR PART-TIME WORKING**

The same considerations to determine employment status will apply even if the individual only works part-time or on a casual basis.

Remember, just because the person may be employed or self-employed in one job, doesn't necessarily mean they will be in another job.

## **WHAT TO DO NEXT**

Schools have adopted a two-stage procedure to define the employment status of a service provider. This consists of a written Employment Status Questionnaire (ESQ) which needs to be completed by the engager with information from the proposed service provider - both parties sign the completed document. This is then used by the engager to carry out an on-line employment status check on the HMRC website using the Employment Status Indicator (ESI) tool. The ESQ has been designed to ask the key questions that the HMRC use in determining employment status of individuals undertaking specific work. The answers cannot be taken as conclusive evidence of employment status and further information may be required.

The answers provided in the ESQ, together with other factors including the terms of the planned contract for these services and the type of duties to be performed, will assist you in completing the HMRC's online Employment Status Indicator (ESI) tool. The ESI tool will determine whether the status is *employed* or *self-employed*. (Both completed documents need to be kept in an accessible place as they will be audited periodically.) If the employment status has been determined as:

- **Self-employment** - you can follow the usual purchasing process. If applicable, future payments to this individual for the same kind of work would also be paid without deductions. If this becomes on-going then the status is likely to change to one of employee.
- **Employee** - you should go through the normal recruitment processes, subject to the usual budget and establishment requirements. Payment will be made via payroll with the deduction of tax and NI.

## APPENDIX I: VISITING SPEAKERS' REQUEST FORM/CHECKLIST

Name of class teacher organising the speaker:

\_\_\_\_\_

Name of speaker: \_\_\_\_\_

Topic/Event it is linked to/Year Group:

\_\_\_\_\_

\_\_\_\_\_

What they are going to discuss:

\_\_\_\_\_

\_\_\_\_\_

Discussed the visitor with the Head of School: Yes/No

Visitor name: \_\_\_\_\_ Company:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

DBS Number: \_\_\_\_\_

**If the visitor is charging the school, an Employment Status Questionnaire must be completed (see attached guidance and questionnaire).**

Visitor approved by the Head of School: Yes/No

Name ..... Head of School

Signed .....

On arrival at the school, ID must be shown to the office, as well as the DBS (if needed) and the safeguarding guidance notes (at the office) and Section I of 'Keeping children safe in Education 2020' are read.

Any concerns about what the visitor has said or done, during their time at school, must be reported to the Head of School immediately.

## APPENDIX 2: SUPPLIER EMPLOYMENT STATUS QUESTIONNAIRE - SCHOOLS

This questionnaire will be used to assist in determining the employment status of individuals engaged by schools, which is important in ensuring the correct application of Income Tax and National Insurance in line with HM Revenue & Customs' guidance - see [www.hmrc.gov.uk/employment-status](http://www.hmrc.gov.uk/employment-status)

An individual who is sourced to carry out work may be classed as either:

- Employed
- Self-employed
- Sub-contractor in the Construction Industry Scheme

### Details of School Engager

Name of Engager [print name]

Name of School

### About the Individual/business

Name of individual or business

Address:

Telephone:

Email:

Nature of business:

Business registration [if applicable]

VAT registration number [if applicable]

Date business started trading

Does the business meet the definition of a Personal Services Company?

Yes  No

\* The generally accepted definition of a PSC is a limited company that typically has a sole director, the contractor, who owns most or all of the shares and undertakes the work.

Do they have the expense of running an office?  Yes  No

Are they or have they been employed by the school?  Yes  No

If so, what differences are there, if any, between the roles?

Do they operate a business bank account?  Yes  No

Is an annual return filed with HMRC?  Yes  No

Do they employ any staff [if yes how many]?  Yes  No

## Business Activities

What will they be doing for the school?

Give brief details:

### Please provide answers to the following questions about the work they will be doing

Will a written contract or similar be in place for these services? [If yes, save a signed copy with this document]  Yes  No

Under the terms of their contract are they obliged to provide someone else to carry out the work if they cannot OR will they have to do the work themselves?  Someone else  Themselves

Does this obligation reflect what happens or would happen in practice?  Yes  No  Not applicable

Can they hire someone to do the work or engage helpers at their own expense for this work?  Yes  No

If Yes, have they done so?  Yes  No

Is the school obliged to offer on-going work to them?  Yes  No

Are they obliged to accept work offered to them by the school?  Yes  No

Apart from an initial brief, will someone tell them what to do?  Yes  No

Will someone tell them at any time where to carry out the work?  Yes  No

Can they decide how to do the work?  Yes  No

Will they work a set amount of hours?  Yes  No

Can someone move them from task to task?  Yes  No

How will their payment be calculated?  Hourly  Daily  Job  Other

Are they paid regularly by timesheet or on submission of an invoice?  Timesheet  Invoice

Will they receive a fixed price  Yes  No

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regardless of how long the job may take?

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Have they suffered late or non-payment of an invoice?  Yes  No

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Will they receive overtime pay or a bonus payment?  Yes  No

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Are they risking their own money when undertaking this activity?  Yes  No

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Does the work involve the use of major items of equipment?  Yes  No  Not Applicable  
(Excluding computers, laptops, printers)

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If so, who provides these major items?  School  Individual

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What are the implications for them if the work performed is substandard?

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Are they subject to the school's internal disciplinary and grievance procedures?  Yes

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If yes, to what extent?

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Who provides the public liability insurance?  School  Individual (save a copy of their current certificate with this document)

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Do they regularly undertake similar work for clients/customers other than the school?  Yes [If yes, how many in last 12 months]  No

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Will they be provided with any of the following? [Please tick if yes]

<input type="checkbox"/> School email address	<input type="checkbox"/> School phone number	<input type="checkbox"/> School business card
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<input type="checkbox"/> School desk	<input type="checkbox"/> Access to Pension	<input type="checkbox"/> Entitlement to sick or holiday pay
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Do they directly manage school staff?  Yes  No

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**OTHER INFORMATION**

Please give details below of any further information which you feel may be helpful

**DECLARATION**

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**Engager: I declare that the information given on this form is accurate**

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Name [Print name]

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Signature

---

Date

---

**Individual/supplier: I declare that the information given on this form is accurate**

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Name [Print name]

---

Signature

---

Date

Completed questionnaire to be signed by both parties. Now complete the ESI tool to determine the employment status of the individual, [www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm)