

Working with freelancers

March 2024



In today's evolving job market, more and more professionals are opting for freelance work rather than traditional employment. This shift has prompted businesses to adapt their recruitment practices to accommodate the growing number of freelancers.

The term freelancer is just one label commonly used to describe the self-employed. Others include consultants and independent contractors. Hiring freelancers can offer numerous benefits for businesses, such as cost savings and access to specialised skills. However, businesses must be aware of the legal considerations of working with freelancers. This article will explore the critical legal issues employers should be mindful of when engaging freelancers and provide guidance on navigating these challenges.

Contracts

While having a contract with freelancers is not a legal requirement, we highly recommend that you establish any expectations clearly and that both parties protect their rights. A comprehensive contract should include the following elements:

- **Scope of Work:** Clearly define the tasks and deliverables expected from the freelancer and the position regarding remedial work (if relevant).
- **Project Timeline:** Establish the timeframe for completion of the project.
- **Dispute Resolution:** Outline how the parties will handle disputes through alternative dispute resolution methods or civil litigation.
- **Termination Clause:** Include a termination clause that specifies the conditions under which either party can end the contract.

- **Payment:** How, when, and by what method should the freelancer expect payment(s) under the contract?
- **Confidentiality:** Are there specific types of confidential information to protect during the engagement and after termination?

By having a well-drafted contract in place, businesses and freelancers can ensure a mutual understanding of their obligations and minimise potential conflicts.

Intellectual Property Rights

One of the primary legal concerns when working with freelancers is the issue of intellectual property (IP) rights. While businesses generally have implied rights to use the material created by freelancers, it's essential to establish clear guidelines to avoid potential disputes. Businesses should consider the following:

- **Crediting:** Determine whether you will acknowledge the freelancer as the work's author or prefer to keep their contribution anonymous.
- **Promotions:** Specify how and by whom the material will be used for promotional purposes.
- **Exclusivity:** Decide whether you require exclusive or non-exclusive rights to the material.
- **Usage:** Clearly define how and where the material will be used.
- **Editing:** Establish whether you have the right to edit or alter the material in the future.

By addressing these considerations upfront and documenting them in a consultancy agreement or terms and conditions, employers can mitigate potential IP disputes.

Payment Terms

Clear and well-defined payment terms are essential when working with freelancers to avoid financial disputes. Businesses should carefully consider the following aspects of payment:

- **Rate of Pay:** Determine whether you will offer a fixed sum for the project or an hourly rate. If using an hourly rate, establish how hours will be measured, recorded and reported.
- **Invoicing:** Specify if freelancers are required to send invoices and establish the frequency and method of invoicing.
- **Payment Timescale:** Agree on a payment schedule that works for both parties to ensure freelancers can manage their finances effectively.
- **Taxes:** While freelancers typically handle their tax affairs, it's essential to clarify whether they are VAT registered and ensure that you address any tax implications.

Employers can avoid disputes and maintain positive working relationships with freelancers by setting clear payment terms and adhering to them.

Non-Disclosure and Exclusivity Agreements

Confidentiality is crucial when working with freelancers who may have access to sensitive information about your business. To protect your interests, consider implementing non-disclosure agreements (NDAs) to ensure freelancers maintain confidentiality. Additionally, exclusivity agreements can prevent freelancers from working on similar projects for your competitors during a specified period. These agreements provide legal recourse and safeguard your proprietary information if any breaches occur.

Other Legal Considerations

In addition to the legal issues mentioned above, there are several other factors businesses should be mindful of when working with freelancers:

- **Worker Classification:** The law has dealt with situations where freelancers were found to be employees because of the nature of their working relationship with the organisation that engaged them. Ensure that freelancers are correctly classified as

independent contractors to avoid conflict with employment law and potential liabilities. Ensuring that what happens in reality is reflected correctly in the agreement is vital.

- **Insurance Coverage:** Assess whether freelancers require their own insurance coverage for errors, omissions, or negligence related to their work. Consider including clauses in contracts to address insurance responsibilities.
- **Workplace Issues:** Although freelancers are not traditional employees, they still have the right to a harassment-free and non-discriminatory work environment. Ensure that managers and employees interact professionally and maintain a respectful workplace culture.
- **Licensing and Permits:** Some professions may require freelancers to hold specific licences or permits to practice legally. Businesses should confirm that freelancers possess the necessary credentials to perform their work.

By proactively addressing these legal considerations, businesses can foster positive and compliant relationships with freelancers while avoiding potential legal pitfalls.

Conclusion

Working with freelancers offers numerous advantages for businesses, but it also comes with legal complexities. By understanding and addressing the key legal considerations discussed in this article, businesses can establish clear expectations, protect their intellectual property, and maintain positive working relationships with freelancers. It's crucial to consult with legal professionals to ensure compliance with relevant laws and regulations. By navigating these legal considerations effectively, businesses can fully leverage the benefits of working with freelancers while minimising legal risks.

Contact [Karen Cole](#) today for more information on working with freelancers.

Karen Cole
020 7299 6909
karen.cole@riaabg.com
www.riaabarkergillette.com



Note: This article is not legal advice; it provides information of general interest about current legal issues.

