

BDA offers owners and associates an alternative contract

The BDA has published an alternative 'worker status' contract after reviewing a series of employment appeal tribunal decisions. The associate contract has been largely the same since the professional body introduced it in the early 1960s but in response to the 'gig economy' prompting judges to apply the law in different ways, members can now take advantage of a new 'worker status' contract.

The worker status contract affords the associate with more protections than the traditional version and reduces risks for practice owners. The associate can remain self-employed for income tax purposes with either contract version. A series of focus groups last year were clear that self-employment was something all of the general dental services community valued.

Lead advisor, James Goldman, said 'We want to give members a choice of template

contracts that are fit for purpose in the face of an evolving employment law landscape. The most suitable contract is that which most accurately reflects the circumstances of the practical day-to-day relationship between the owner and the associate. There are model contracts, advice and online learning to help members to understand and implement their contracts of choice.'

For further information visit www.bda.org/associates-employment-status.

COMMENT

NASDAL: Associate worker status – it's complicated

Following the recent N Sejpal v Rodericks case, NASDAL offer their take on the status of dental associates

There has been discussion in the dental sector about the status of dental associates and whether they are self-employed, workers, or both. Worker status is relevant for tax, employment rights including holidays and discrimination claims. Most associates prefer self-employment due to the flexibility and tax benefits. However, it could be the case that an associate could be considered self-employed for tax purposes by HMRC and still be a worker.

Senior Partner at Specialist Dental Accountants, Morris & Co, Nick Ledingham said: 'This is an extremely complicated area and there is no 'one size fits all' I'm afraid. Employment law is very case specific and in my experience, the issue will only affect a very small minority of associates. As ever, it is important to seek specialist advice.'

Chris Davies, Head of Healthcare at JCP Solicitors added: 'There are a number of factors to consider when examining any healthcare employment case, with the issue of personal service, in particular, set to be crucial when looking into the issue of an individual's employment status for employment rights purposes.'

'This is an evolving area of the law, and we are monitoring influential cases which could set a precedent such as N Sejpal v Rodericks Dental Limited, which has been remitted back to the Employment Tribunal for final determination following



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a successful appeal to the Employment Appeal Tribunal. This case could have wide-ranging implications for the future of healthcare employment law, so we are watching this carefully.

'Employment rights and the issue of self-employment in the healthcare sector is a highly complex area of law and should be approached with expertise on a case-by-case basis.'

Dental practices across the country would be wise to keep this particular case under review and to follow the outcome as to how the Employment Tribunal deals with the questions of:

- Whether individual associates are carrying on a profession or business undertaking, and
- Whether and in what circumstances a party is likely to be considered a client or customer in the context of dental practice relationships with associates.

Employment cases are very fact specific. However, the outcome of the aforementioned case could potentially have implications for dental practices across the country, for whom the vast majority operate on the basis that dental associates are self-employed and not employees or workers.