

COUNCIL FOR DANCE EDUCATION AND TRAINING

Example Contract for Self-employed or Freelance Staff Guidelines

For CDET's *Recognised Awards*

The guidelines below for a contract for self-employed or freelance staff are designed to support those who hold the CDET *Recognised School Award*. The guidelines may also be used as guidance for those applying for an Award and the content provided may be amended to suit the needs of individual applicants. The material in this document and the policies, procedures and guides referred to in the contract do not give a full statement of the law, nor does it reflect changes after November 2010. It is intended for guidance only and is not a substitute for professional advice. No responsibility for loss occasioned as a result of any person acting or refraining from acting on the basis of this material can be accepted by CDET. Some of this text has been adapted from the PEACe model self-employed contract www.lvsc.org.uk/peace.

All operational policies, procedures, resources and facilities remain the responsibility of the *Recognised Award* member. Ensure you use the appropriate contract – this one is for self-employed or freelance staff. There is an alternative contract for employed teachers. The original of this policy can be found on the CDET website.

Contract for Self-employed or Freelance services Guidelines Contents Summary

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EXAMPLE CONTRACT FOR SELF-EMPLOYED or FREELANCE SERVICES

This is an example of a contract for self-employed or freelance services to use when engaging a genuinely self-employed freelancer, consultant or sole trader. Organisations may wish to add extra terms and conditions that are appropriate to their organisation and to their working relationship with their staff.

The law does not require you to complete a contract with your self-employed or freelance workers - a verbal contract can exist even when there is nothing in writing. However, organisations are strongly advised to have a written agreement that clearly states what is expected from each party and this is a requirement for *CDET Recognised Schools*.

What the law requires

Self-employed people (for example, freelance teachers) do not have employment rights but should still not be discriminated against. They are also entitled to a safe and healthy working environment at their client's premises.

Good practice

There are some details included in the contract that are considered to be good practice for organisations including clauses that clarify how the contract will be ended, the nature of the working relationship and who is responsible for tax and National Insurance Contributions.

How to use this document

After each clause (or numbered statement) there are notes to help you make decisions about what to include in the contract or what is not relevant for your organisation. These guidance notes are clearly shown in boxes.

These boxes must be deleted from the final contract that you give to the self-employed or freelance person. They are only shown here for your guidance.

Changing the contract at a later date

Once both the organisation and the self-employed / freelance person have agreed the contract for services, any changes to any of the details will need to be agreed by the self-employed person. That is why it is important to get the contract right before you give it to the individual.

If he or she agrees to the changes, the details should be written down. This could be in a letter, and both the organisation and the self-employed / freelance person should sign the letter to show their agreement. Both the organisation and the self-employed / freelance person should then get a copy of this signed letter.

CONTRACT FOR SELF-EMPLOYED or FREELANCE SERVICES

1. DETAILS OF PARTIES

THIS AGREEMENT is made on Enter Date here

between

Enter your organisation name and address here (hereinafter referred to as “the organisation”)

and

Enter the name and address of the freelance teacher here (hereinafter referred to as “the freelancer”)

Here you must fill in the full date of the agreement, then the name and address of your organisation and the name and address of the self-employed/ freelance consultant.

To save having to write the details of your organisation's name and the self-employed / freelance person's name out in full in the rest of the document, this sentence also says that they will in future be referred to as “the organisation” and “the freelancer”. Instead of “freelancer” you could say “consultant” or “contractor”. The same term must be used throughout the contract.

2. NATURE OF WORK

The following work will be carried out by the freelancer on behalf of the organisation:

Give details of the role or service to be provided by the freelancer with details also of any specific hours or number of days that the work will last for, and any specific tasks to be undertaken.

You may also want to refer to another document with these details that can be attached to the contract.

However these details should not describe a post or job description in case this can be interpreted as employment rather than providing a service.

The Freelancer:

The work will be carried out by the named freelancer appointed, who may not sub-contract work to someone else without the agreement of the organisation.

It is normal for a self-employed person to be able to make decisions about how the work is to be undertaken. The organisation will not have the same amount of control over how the work is done as they would over an employee.

Unless you include this clause, the self-employed person could, if they wish, send someone else to undertake the work in their place.

3. TIMETABLE

The work will be for the equivalent of _____ days over a period of _____ weeks between _____ and _____, or until terminated by two weeks' prior written notice by either party or by mutual agreement or any other arrangement agreed.

It is useful to give some timetable to the work and to have these details included in the contract. You may not have agreed a specific number of days' work expected within the time period, so this part of the clause could be deleted. However you are likely to have a start date (often the date when the agreement is signed) and an end date and it is important to have these clearly included in the contract. You may also have specific meeting dates with the self-employed freelancer when you want to review the service provided and tasks completed so far. These could also be included in the timetable.

This contract allows either the organisation or the self-employed person to end the contract by giving two weeks' notice in writing. You may decide that two weeks would not be long enough and require a longer notice period.

4. TERMINATION

This contract will be terminated on _____ or by two week's prior written notice by either party, unless it is agreed by mutual agreement to continue after that date.

This agreement shall terminate immediately in the event of failure on the part of either party to observe any material obligation under this agreement.

This clause clearly states when the contract will end. No notice need be given when the contract is due to end, but the organisation will need to check that the work is completed, and it is useful to have a final payment waiting approval of completed work.

There is also an option for the contract to be ended early with two weeks' written notice. You may want a longer period than two weeks for your organisation.

The clause also says that the contract will end immediately if either the organisation or the self-employed person does not follow any of the key clauses of the contract, particularly those covering work and payment expected.

5. FEES

The organisation will pay a fee of £ _____ per day / per hour. This fee is inclusive of VAT, national insurance, income tax, professional indemnity, public liability insurance and travel expenses. Other out of pocket expenses will be reimbursed on agreement with the contract manager and on production of appropriate receipts.

Your organisation may not have agreed a daily or hourly fee with the self-employed / freelance person. Instead you may have agreed a total fee for completion of the whole task or service provided, ideally to be paid in instalments (e.g. one third on signing the agreement, one third half-way through the agreement period and one third on completion). These details will be negotiated with the self-employed / freelance person. Whatever is decided should be clearly stated in the agreement.

You may also decide that all expenses must be covered in the fee paid, or you may also want to be very specific about what expenses will be paid on top of the fee e.g. travel expenses only. These details will be negotiated with the self-employed / freelance person. Whatever is decided should be clearly stated in the agreement (see also clause 6. below).

Payments will be made in arrears within 30 days of receipt of invoices from the freelancer. Nothing in this clause shall affect the organisation's right to contest liability to make payment in part or in full.

This clause also makes clear that invoices are expected from the self-employed / freelance person.

As is standard practice, you are also warning that invoices may not be processed and paid immediately and may take up to 30 days, or whatever is appropriate for your organisation.

The clause also states that the organisation will not lose the right to query making full payment if they feel that the work has not been completed.

6. EXPENSES

The organisation will pay reasonable properly recorded expenses accrued in the course of carrying out work agreed in this contract provided that these are agreed in advance with _____ and appropriate receipts are provided.

You should fill in the name and post of the person who can authorise the expenses.

You may decide that all expenses must be covered in the fee paid in which case this clause should be deleted.

Or you may also want to be very specific about what expenses will be paid on top of the fee e.g. travel expenses only. These details will be negotiated with the self-employed person. Whatever is decided should be clearly stated in the agreement (see also clause 5. above).

7. SICKNESS ABSENCE

If you are unable to attend work for any reason and your absence has not previously been authorised by the organisation you must inform the Principal/ Manager of the fact of your absence and the full reasons for it at least 30 minutes before your normal start time on each working day of absence until you have provided the organisation with a medical certificate. You must also notify the office of the likelihood of your date of return and keep the Principal informed of your progress. For absences of four and five working days you may be required to complete a self-certified form. For absence beyond five working days you may be required to obtain a medical statement signed by a doctor.

8. ACCESS TO DOCUMENTS

- (i) The freelancer will permit at any reasonable time examinations of his/her documents and records by representatives of any funders of the organisation or to any person appointed by the organisation (for example, auditors) and shall provide oral or written explanations and all other reasonable assistance to these people.
- (ii) The freelancer shall comply with any Code of Practice issued by Her Majesty's Government from time to time on access to official information and shall promptly respond to reasonable requests for information.
- (iii) The freelancer shall upon termination of his/her engagement immediately deliver up to the organisation all correspondence, documents, specification papers and property belonging to the organisation which may be in his/her possession or under his/her control.

These clauses are not essential. However it covers some of the requirements from funders and government bodies that may be experienced by organisations, and also makes clear that all documents should be given to the organisation at the end of the contract.

If you have any further requirements or stipulations from funders that may affect the self-employed / freelance person's work, these should also be included in the contract.

9. COPYRIGHT

The entire copyright in all material written by the freelancer in the course of carrying out this work will be held by the organisation who shall have the exclusive right to publish any such material throughout the legal term

of copyright.

It is important to include this clause, otherwise any documents or information collected or written by the self-employed / freelance person will be owned, for copyright purposes, by the self-employed / freelance person. Any future use of the written information will have to be explicitly agreed with the self-employed person if this clause is not included.

10. CONTACTS

The organisation contact person will be:

[Name]

[Job Title]

It is useful to include the contact person for the self-employed / freelance person so if they have any future queries about the work, they know who to contact.

You could also include a direct telephone number and email address.

11. PRINCIPLES

- (i) The freelancer will conduct her/himself in a proper, skilful and professional manner in accordance with The Organisation's Code of Professional Conduct.
- (ii) The freelancer shall not agree any further work with a competitor client (to the organisation) for similar or related work without first receiving the agreement of the organisation, and shall not solicit further work from a competitor client directly for similar or related work.
- (iii) The freelancer will not (except in the proper course of your duties hereunder) use or divulge or communicate to any person any confidential information which belongs to the organisation or any student or teacher.

These principles outline a code of conduct expected of the self-employed / freelance person.

It can be useful to include this principle to make it clear that the self-employed / freelance person should not use their time working for your organisation to help them get further work with a competitor, or to use the information gained in the work to help them work with their work with a competitor.

12. TAX AND NATIONAL INSURANCE

- (i) Prior to this contract taking effect, the freelancer will provide The Organisation with appropriate evidence of independent freelancer's status or self-employment status. Normally, relevant correspondence with HMRC will be sufficient.

Your organisation may decide that an invoice is sufficient from the self-employed / freelance person. However it does not prove that the person is taking care of their own tax and National Insurance contributions.

HM Revenue and Customs (www.hmrc.gov.uk) have confirmed that the only document that will provide proof that the individual is registered as self-employed, is a letter or other correspondence from HMRC covering this issue. A unique tax reference number (or UTR number, which replaced the Schedule D number) is not sufficient proof as some employees who pay tax and National Insurance PAYE may also be issued with a UTR number.

- (ii) Where the freelancer is not registered as self employed with the appropriate authorities, the organisation will deduct tax and NI at source through PAYE.
- (iii) In the case of (ii) the fee paid to the freelancer, as stated in clause 5. above will be reduced by 12.8% - or the amount equivalent to the current rate of Employer's National Insurance contributions.

If the person is not able to show that they are self-employed, then it is less risky for the organisation to deduct tax and National Insurance contributions through PAYE.

Otherwise the organisation could be liable for any tax and National Insurance not paid.

- (iv) The freelancer will account to the appropriate authorities for any income tax and national insurance charges arising out of any payment made to the freelancer under this agreement.
- (v) The freelancer agrees to indemnify the organisation against any income tax or National Insurance due by him/her which may be levied on the organisation by the appropriate authorities.

These two clauses stress the need for the person to be responsible for their own tax and National Insurance.

If the self-employed / freelance person gives misleading information, the organisation will have the power to try and get the costs back for any unpaid tax or National Insurance claimed by HM Revenue and Customs of the organisation.

13. PROFESSIONAL PRACTICES

The freelancer agrees to abide by the organisation's health and safety policy, equal opportunity policy, children and vulnerable adult protection policy, customer service policy and code of professional conduct.

It is important to include expectations that the self-employed / freelance person will abide by the principles of your organisation's Policies and Procedures in the way they work.

14. PUBLICITY

The freelancer is entitled to mention the fact that freelance work with the organisation has taken place in future publicity material.

This clause is not necessary, and can be deleted if required. However, self-employed / freelance people will often like to show a list of organisations they have worked with in their future publicity material.

15. STATUS

- (i) This agreement does not form the basis of an employment relationship between the organisation and the freelancer, and the freelancer is responsible for paying their own tax and National Insurance contributions.
- (ii) The freelancer is not an agent of the organisation and cannot create any obligations for it.

These are two useful, standard clauses often used in contracts. They stress that the contract is not an employment contract. They also state that the freelancer cannot set up any other agreements or obligations on behalf of the organisation.

16. ALTERATION

This agreement can be changed only with the written consent of both sides.

17. FORCE MAJEURE

Neither party shall be deemed in default of its obligations under this agreement nor shall be liable to the other to the extent that it is unable to perform any of its obligations by reason of any event or circumstance beyond its reasonable control.

This is another standard clause often used in contracts. 'Force majeure' is a French phrase that literally means a superior force. It covers unforeseeable circumstances that prevent someone from fulfilling a contract. It recognises that there may be extreme and unusual occasions beyond anyone's control that could make the agreement impossible to fulfil (e.g. a war or general strike etc.) by either or both sides.

18. GOVERNING LAW / JURISDICTION

This agreement shall be governed by and construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts.

This standard clause clearly states that if either party wants to dispute this agreement in the Courts, it will be governed by English law as opposed to the law in other countries (including Scotland).

19. NOTICE

Any notice to be served under this agreement shall be served upon the recipient at its address set out herein either by hand or by first class post or otherwise by facsimile or e-mail transmission and shall be deemed served 48 hours after posting if sent by post or on delivery if it is delivered by hand and on completion of transmission if sent by facsimile or e-mail.

This is a standard clause often used in contracts that relates to official notices sent to either the organisation or the freelancer, in the event of a legal dispute over the agreement.

20. SIGNATURES OF AGREEMENT

	Print Name		Dated:	
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To be signed on behalf of the Organisation				
	Signed			

To be signed on behalf of the Freelancer	Print Name		Dated:	
	Signed			

Even if the agreement is not signed it may still be valid.

If the self-employed / freelance person starts work and accepts any fee, a contract between the organisation and person exists. But it is good practice to ensure that it has been received, understood and signed and it is a requirement of CDET's Recognised School Award.

The organisation and the self-employed / freelance person should each keep copies of the contract.

SUPPORTING NOTES

Information to be read by freelancer

It is important that the freelancer reads carefully the details of this contract before signing.

Signing and retaining copies

For each freelancer, there should be two identical copies of the contract, each signed by both parties. It is recommended that both copies of the contract are signed on behalf of the organisation and sent to the freelancer, who will then sign and date them before returning one to the organisation and retaining the other.

Amendments and Alterations to this contract after signature

The contract may be altered if the parties wish but legal advice on any material alterations should be sought. If amendments or deletions are made, they should be initialled by both parties.