

# Self-employed work

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*“Inexperienced diggers who would be counted as trainees in some cases... are being lured into these jobs by companies wishing to keep their costs down.”*

## A Discussion

Following on from the recent issues noted on the BAJR and Diggers' Forum Facebook groups, this statement covers the position of Diggers' Forum (DF) on the use of self-employed contracts in archaeology.

It is important to state first off that self-employment in archaeology is perfectly sustainable when done correctly, with both the individual and the company subcontracting them being fully aware of the legal, tax/HMRC and professional processes involved. The use of self-employed staff suits some companies well, and some individual archaeologists well, as it allows both parties more flexibility. We are not in any way denigrating this practice. CifA have produced guidance on self-employment, available here:

<http://www.archaeologists.net/practices/selfemployment>).

The issue comes when one or both parties are unaware or mis-informed of any of these processes.

DF is concerned about the potential for inexperienced diggers (and experienced diggers who are uninformed about the correct process of becoming self-employed) to enter into self-employment contracts without knowing what being self-employed actually requires of them. The CifA Policy document on Self-Employment notes:

*2.1 An example of where self-employment might be considered by CifA to conflict with ethical practice would be when self-employed workers are used as a way of cutting costs by avoiding the employers' obligation to provide benefits such as paid leave, sick pay, provision of personal protective equipment etc. Engaging self-employed workers for this purpose is considered to be a contravention of Principle 5 of the CifA Code of conduct. For members and Registered Organisations this could lead to investigation under CifA disciplinary or complaints procedures as appropriate.*



DF have been informed that some companies are advertising what appear to be contract jobs on good salaries which individuals are taking without realising that they are agreeing to go self-employed. Staff are then informed on requesting their contract that they are in fact self-employed. This creates potentially serious legal issues for both the company (who should have informed the staff prior to the beginning of any contract/sub-contracting) and for the individual who may be operating outside of HMRC tax regulations (for more info see <https://www.gov.uk/working-for-yourself>). This process of employment is wholly inappropriate and DF would like to encourage anyone who has experienced this to contact the committee, who will treat all reports with full confidentiality.

The issues identified by the DF Committee are:

- A lack of knowledge of the legal necessities (particularly in terms of insurance, tax and contractual agreements) of being self-employed.
- The non-consensual use of “self-employed” short term staff
- The potential problems for site staff who accidentally find themselves unregistered for tax
- The deliberate use of inexperienced, under-trained staff in self-employed roles to cut costs

If you are unsure whether you are self-employed, you should first enquire with your company and secondly using the HMRC employment status indicator (<https://www.gov.uk/guidance/check-employment-status-for-tax>) to find out.

If you do find yourself in this position, there are several important steps to take. The first step is to contact the DF Committee ([diggersforum@gmail.com](mailto:diggersforum@gmail.com)) who will be able to offer advice and raise it within ClfA should you wish. We act with complete confidentiality, handling any information carefully and respectfully of your wishes. While we are only able to proceed further if the company you work for is an RO or run by a ClfA member, we would also encourage anyone working outside the RO system to contact us as all information helps. You should also contact David Connolly at BAJR ([info@bair.org](mailto:info@bair.org)) if the company or job is listed on BAJR.

The second step, if applicable, should be to contact your union and ask for legal advice on whether you have accidentally broken the law, particularly in regard to working on sites without insurance and on tax issues. Unions remain the best source of free legal advice for their members.

Archaeologists are variously represented by:

- Prospect (<https://www.prospect.org.uk/our-industries/branch/f181?ts=1261>);
- Unite (<http://www.unitetheunion.org/>);
- UCU (<https://www.ucu.org.uk/>);
- and IWW (<https://iww.org.uk/>)



If you find that you have accidentally failed to pay tax then you should declare it as soon as possible to HMRC, along with a full break down of your accounts. This may make employing an accountant necessary. Finally having sorted out past issues, you should re-negotiate your terms of sub-contracting with the company you are working alongside. Remember: as a freelancer you are effectively operating as your own company. You have as many rights as the company you are negotiating your contract with.

For more information on self-employment in archaeology, DF would encourage everyone to read the following literature:

- Chiz Harward's summary ([http://www.academia.edu/9910824/Self-employment\\_facts\\_and\\_figures](http://www.academia.edu/9910824/Self-employment_facts_and_figures) -figures are for 2011 so have changed);
- the BAJR guide ([http://www.bair.org/BAJRGuides/17.%20Employed%20or%20Self-Employed%20in%20Archaeology/Employed\\_SelfEmployed.pdf](http://www.bair.org/BAJRGuides/17.%20Employed%20or%20Self-Employed%20in%20Archaeology/Employed_SelfEmployed.pdf)) and advice ([http://www.bair.org/BAJRGuides/36.%20Self\\_Employed\\_expectations/36\\_Self\\_employed\\_field\\_archaeologist.pdf](http://www.bair.org/BAJRGuides/36.%20Self_Employed_expectations/36_Self_employed_field_archaeologist.pdf)); and
- the CIfA Policy statement (<http://www.archaeologists.net/practices/selfemployment>).

All of these documents point out the extra responsibilities, costs and time required for self-employment, as well as the lost benefits of not being an employee. It is for these reasons that self-employed archaeologists charge more than just the average day rate of a digger for their work. Calculations completed by experienced DF members show that to gain the equivalent of an £18,000 PCIfA minimum wage (any wages below this excluding benefits in kind would be considered trainee wages, which as noted above would be entirely inappropriate for self-employed archaeologists) it is necessary to charge £107 per day. Anything less than this and you are in effect undercutting yourself, and bypassing the minima system outlined by the CIfA and by BAJR. And if you are doing this as a CIfA member, then you are also breaking the agreement you made as part of your membership.

