

Self-employment part 1: rights and responsibilities

Edward Maxwell

Introduction

Being self-employed gives you the freedom to dictate how you work, when you work and where you work. (Well, that's at least in theory – if you're working for a school, they may well treat you as a *de facto* employee, but more on that later.)

When you embarked on your career as a musician and music teacher, you probably didn't consider that you'd end up running a small business, or even becoming a musical entrepreneur. Your training may have given you an insight into sonata form, but did you learn how to fill in a self-assessment form?

If you're self-employed, in addition to actually teaching music, you are also your own secretary, diary manager, finance director, head of marketing, tax inspector and pensions analyst. You may also be juggling parallel careers in other aspects of music: performing, composing, publishing, examining and music administration, for example, or you might have another job, unrelated to music. And somehow you need to find time for family life and 'downtime'.

This is the first in a three-part examination of self-employment. In this resource, I'll be examining what exactly self-employment means, and how to run your business efficiently. In part two, I'll look at factors to consider when setting rates of pay. In part three, I'll look at the public face of your business – developing positive relationships with clients.

Employment status

Let's start with a summary of different employment statuses you may well have as a visiting music teacher. You may want to research this in far more depth – this is only a very brief outline. There is plenty of information available on the gov.uk and also the websites of the Independent Society of Musicians (www.ism.org) and the Musicians' Union (<https://musiciansunion.org.uk/>).

Employee

If you're an employee, you'll have a contract of employment setting out your role within an organisation, which will determine your rate of pay, the number of hours you work per week, and the notice period required for leaving (on both sides). You will be paid through the organisation's payroll, and you'll receive an itemised payslip.

Benefits of being an employee include:

- ▶ Holiday pay.
- ▶ Sick pay.
- ▶ Pension scheme enrolment.
- ▶ Maternity and paternity pay.
- ▶ Statutory redundancy pay.
- ▶ Protection against unfair dismissal.

Worker status

This is a casual or 'zero-hours' contract, in which hours can vary – in the case of music teachers, this means that a school or music service can't guarantee your number of hours, which may vary according to the demand for the particular instrument you teach. School rehearsals or concerts (playing, accompanying or ensemble direction), instrumental demonstrations and trial lessons are all paid at an hourly rate.

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The benefits here are broadly the same as those listed above, but with reduced protection – for example, you lose the right not to be unfairly dismissed, there is no redundancy pay, and maternity/paternity pay is not guaranteed.

Sole trader (self-employed)

According to the HMRC, ‘a person is self-employed if they run their business for themselves and take responsibility for its success or failure’. You have none of the rights and protections of an employee, but you have complete control over how you work, when you work, where you work and how much you charge.

You are your own boss, but you need to budget very carefully – you only get paid for the actual work you do, and you do not have an employer taking your tax and National Insurance through PAYE, or making pension contributions on your behalf.

If you work on a self-employed basis for a school, music service or agency, your employment status can become rather ambiguous, and there are very fine margins between whether you’re truly self-employed or employed. The *off-payroll* rules, where you’re working *through* an intermediary (such as a school) are known as *IR35*. The subtle distinction is that you’re not working *for* the school – it is merely a facilitator. Your contract is with the parent (though you may have a separate contract with the school, which sets out the terms by which you use their facilities). While the school might introduce pupils to VMTs and promote their services, music tuition is not offered by the school *per se*.

Benefits of self-employment

If, like many VMTs, you have a patchwork career covering playing, teaching and more, self-employment gives you plenty of flexibility to take work as you choose. You can cancel a lesson any time if you have a gig and if, for example, you’re offered a tour, you can send a dep to cover your teaching.

You’ll probably have multiple income streams, rather than having all your eggs in one basket. This means you can continuously refine your jobs – you can take on new pupils and choose to stop teaching problematic or less rewarding ones. You can gradually move to schools where you’re better respected and better paid (and where there’s better parking – a major factor for me when considering a new job offer!). If you have a busy patch of playing, you can ease off on the teaching.

If, on the other hand, you’re a career teacher, an employed job may be preferable: you will enjoy holiday pay, a pension scheme and other perks. You won’t have to collect lesson fees and your tax will be taken care of.

You can be both employed and self-employed simultaneously. In my own experience, I’ve enjoyed just as much flexibility in my employed jobs – schools and music services have been happy for me to have time off for performances and have, if I haven’t been able to fulfil my 30 lessons in an academic year, made the necessary adjustments in my pay and with parents’ invoices. They have appreciated the fact that they have a performing musician working for them. Admittedly, not all employers are as understanding.

Private teaching

If you teach ‘privately’ – as opposed to in a school – you will be unequivocally self-employed. Your venue will probably be your home, a pupil’s house, or a hired venue (for example, a church hall or the back of a music shop). You choose the fees and you choose when and where to teach.

You need to be highly organised, in both your interactions with pupils and parents, and with your own administration.

Managing your diary

You need to manage your calendar carefully, especially if lessons are not at the same time each week. It looks extremely disorganised and unprofessional if a pupil comes to your house, only to find it empty. Likewise, if you go to a pupil’s house and nobody is there, you’ve had a wasted journey (though the lesson should, of course, still be charged). Sending reminder texts or emails can be useful, so that there’s clear proof of a lesson time, or you might use an online booking system that synchronises with pupils’ electronic calendars.

Billing

It's highly recommended to bill in advance, so you do not risk giving a term of lessons and then finding the pupil defaults on payment. It's most common to charge ten lessons in advance, but this is entirely up to you to decide. Don't forget to add any extras you may have provided for a pupil – for example, reeds, strings, valve oil or music books. It's easy to forget these things, so it's useful to have a list or spreadsheet that you fill in when you give things out. If you enter a pupil for an exam, make sure the parent pays before you've put in the entry. You don't want them to suddenly change their mind and leave you out of pocket.

Online systems

There are plenty of online calendar options that allow for pupils to register and, indeed, cancel lessons online (you should stipulate the amount of notice required for cancellation).

Even if lessons are scheduled for the same time every week, it's essential that you cover yourself in the case of any misunderstanding, for example if a pupil is away one week and claims to have told you in advance. If you dictate in your terms and conditions that it is their responsibility to enter any known absences on your online system and they haven't done so, there can be no dispute that the lesson needs to be paid for.

You can also use online services for billing, sharing repertoire and resources. For a comprehensive list of what's on offer, and to read reviews, visit the Capterra website (www.capterra.co.uk) and type 'Music School Software' into the search bar.

Marketing

As a small business owner, you're responsible for your own marketing. Hopefully, your profile will soon grow, and you'll be highly recommended in your local community: word of mouth is always the best way to gain a good reputation.

If you're new to an area, or just starting out, you may have to be more proactive. Having an online presence is essential – preferably a website or social media page. There are often online forums to promote local businesses that you can join, or you could try the old-fashioned approach of displaying postcards advertising your services in the local library, newsagent or music shop (if you're lucky enough to still have one). There are also online directories of music teachers, including those published by ISM and MU.

Getting involved in community music projects is a good way to get yourself known. I once volunteered to be the musical director of my village pantomime and had numerous requests for piano tuition as a result, for example.

Working in schools as a self-employed VMT

Engaging self-employed VMTs saves schools a lot of time, money and administration. They don't have to collect fees from parents, or take the financial risk of people who default. They don't have to keep careful track of the hours we teach (though they will require registers in order for them to fulfil their requirement to know where pupils are at all times). They don't have to pay employers' pension contributions, holiday pay, sick pay or maternity/paternity pay. They don't have to sort out PAYE and pay employers' National Insurance. And they can get rid of anyone they don't like without any consequences. They (hopefully) benefit from a fully functioning and vibrant music department without paying anyone a penny. Some schools even charge VMTs a fee to use a room.

In return for providing music tuition within a school, VMTs are given (hopefully) clean and warm facilities and the opportunity to ply their trade and earn a living in a comfortable environment.

This is usually a happy balance, known as *mutuality of obligation*. However, this delicate equilibrium can be damaged if schools attempt to treat VMTs as employees under the guise of self-employment, and to exert more control over them than is reasonable (or lawful).

Here's a list of rights you have as a self-employed VMT:

- ▶ You can set your own fees.
- ▶ You can engage a substitute. If, for example, you're offered a touring show but want to keep your teaching post, you have the right to ask someone to cover for you, as long as your dep is DBS checked and has undergone statutory safeguarding training. The school should not impose unnecessary limitations on this.
- ▶ You're free to take on or decline pupils offered to you.
- ▶ You're not subject to control from anyone telling you how to teach, what exam boards to use, what teaching materials to use, and so on. This is for you to agree with pupils and parents.

- ▶ You're free to determine your own terms and conditions for lessons (many schools have their own, but you're entitled to overrule them if you don't like them).
- ▶ You can choose how many lessons you give in any term, in consultation with parents. Schools often stipulate a required number of lessons, but this suggests control over your practice – you're free to overrule this.
- ▶ You can choose when you teach (obviously, subject to room availability and school timetabling – it might be impossible to teach a student during games, for example).
- ▶ Reports are useful indicators of progress for parents, but schools have no right to require them. You are answerable to the parent with whom you have the contract, not the school.

In order to keep VMTs at an arm's length, so they are not seen as employees, schools are generally advised by employment lawyers and the Independent Schools' Bursars Association to charge VMTs a facilities charge (see below) and to avoid integrating them into the school workforce, such as naming them on staff lists, offering free lunches, or giving school email addresses and staff lanyards. The latter two issues can potentially create a conflict with school safeguarding rules, however.

If a VMT feels that the school is treating them as a de facto employee – exercising undue control, but without affording them an employee's benefits (as mentioned above – holiday pay, pension etc) – they may feel aggrieved. The MU and ISM will be able to give excellent advice and, if necessary, support a claim at a tribunal. This can be an immensely stressful and acrimonious, not to mention expensive, undertaking, and a negotiated outcome between VMTs, head of music and school bursar is always preferable. Tribunals are never clear-cut and can be decided on fine margins that do not always go in favour of the VMT. The word 'recommended', for example, when talking about school-dictated fees might tip the balance, or perhaps the fact that you missed a week of teaching to do a concert actually illustrates the flexibility you have over your timetabling and the fact that school does not have overbearing control. Nothing is clear cut.

The case of *Scott v Chigwell School*, which ruled that the VMT was indeed a worker, rather than being self-employed, gained some publicity in 2019. A more recent case from 2022, *Kitchener v Cranleigh School*, went in favour of the school, despite many apparent similarities. To read the rulings, visit the UK Government's employment tribunal decisions website (www.gov.uk/employment-tribunal-decisions) and type the case names into the search bar.

It's questionable whether being employed is actually an advantage to the VMT – you actually lose control over your rates of pay, which are imposed by your employer.

Room charge

Some, but by no means not all, schools charge self-employed VMTs for the hire of the room, ostensibly to prove that they are self-employed. This is a contentious argument, but schools may consider it a factor on the side of self-employment if there is a case brought to a tribunal: as we've seen, there are fine margins and much is open to interpretation. Usually the amount charged is nominal, just to add a symbolic distance between the VMT and the school. I have, in the past, been charged a flat rate of £1 per term, regardless of the number of pupils taught. Other schools might charge £1 per pupil per term, which is about 10p per lesson. I've heard of schools charging up to 10% of the total fee, however. This seems disproportionate: the delicate balance between the school benefiting from our work, while allowing use of the facilities, is out of kilter.

If the school claims to be charging a 'commercial' rather than nominal rate, do they change the rate according to the size of the room? Do they charge piano or percussion teachers more for the use of the extra equipment? Can VMTs charge the school for providing part of the curriculum, if they're preparing pupils for GCSE or A level performances? Don't school fees already include the use of the school's facilities? VMTs will simply add the fees to the lesson price, so the parents are essentially paying twice.

You may (as I have) be instructed by a school not to itemise the room hire cost on your bills to parents. The school has no right to make his request, however – it is attempting to exercise control over how you run your business.

Safeguarding

It's essential to have a valid DBS certificate when working with children, or, indeed, vulnerable adults. If you work in a school, it will organise and pay for this for you. If you're working privately, you will need to organise it yourself – you can apply for a basic DBS certificate through the gov.uk website (www.gov.uk/request-copy-criminal-record), but an advanced DBS check is recommended for one-to-one teaching. This can be arranged through the MU or ISM, if you don't work for a school. It's a good idea to subscribe to the update service (currently £13 annual fee), which makes your DBS transferable, rather than having to have multiple checks at different schools.

Schools have a statutory requirement to provide annual safeguarding training, either in person or online. If you've completed an online course for one school, you can often submit the certificate you gain to another school, to avoid duplicating the content, though some schools insist on you completing their own course.

Contracts

Regardless of whether you teach privately or for an institution, it's essential to have a contract that sets out your terms and conditions. Templates of contracts are available from the MU or ISM – it's important to read through these carefully and make any adjustments you feel are appropriate. You have the absolute right to set any conditions you want. If someone doesn't like them, they can take their custom elsewhere.

A contract should include:

- ▶ Names and addresses of teacher and pupil/parent.
- ▶ Where the lesson is held.
- ▶ How much you charge.
- ▶ Are fees paid in advance or arrears? (In advance is firmly recommended.)
- ▶ What notice do you need to give for fee increases?
- ▶ What notice should be given for stopping lessons on either side?
- ▶ The thorny issue of missed lessons, through illness or other commitments. Can notice be given, or are you committed to a regular time, regardless of the reason for a missed lesson? If a pupil gives notice that they have a hospital appointment that clashes in a month's time, do you rearrange the lesson? If you have a rigid timetable and rely solely on your teaching income, you may not be able to afford to have gaps in it. However, if you do freelance playing, you will probably be happy with some flexibility. If you change lessons regularly at the last minute to fit in performances, it might be appropriate for this flexibility to be a two-way street, in order to maintain goodwill. Either way, your contract needs to be very clear, so there can be no misunderstandings.

Managing your finances

If you're self-employed, you must register as such with HMRC and you will be required to fill in an annual self-assessment tax return, which will tell you how much tax and national insurance are due. Many people employ an accountant to do this for them, but if your finances are straightforward, it's easy to fill it in yourself. There is lots of guidance available on the gov.uk website (www.gov.uk/self-assessment-tax-returns).

Be honest when declaring income, however tempting it might be not to be. These days, few people use cash, so most payments are made by bank transfer. This makes accounting easier and more efficient. If you do receive cash, ensure you declare it – it's simply the right thing to do, on many levels. Even if you're not convinced by the moral arguments for paying tax (you're contributing to the NHS, etc), it will benefit you to declare your full income if you apply for a mortgage, which will be based on your income: the more you earn, the more you can borrow. The SEISS (Self-Employment Income Support System) grants during the Covid pandemic were based on income. If you'd failed to declare income, you wouldn't have received so much support. If HMRC decides to investigate you, they have sophisticated ways of detecting undeclared income, and there can be harsh penalties if you're found guilty.

Keeping records

It's essential to keep records of all income and expenditure. You will need them when completing your tax return. Of course, if you have an accountant, you will still need these figures to pass on for them to put the figures in the necessary boxes on your tax return.

The simplest way of accounting is to keep a spreadsheet of money coming in, money spent in the course of your work, and your total work mileage. Your profit is total income, minus total allowable expenses, minus travel expenses. The easiest way to calculate travel expenses is on a per-mile basis: 45p per mile for the first 10,000 miles, then 25p per mile thereafter. Keep all receipts, whether paper or electronic – if you get investigated by HMRC, you will need them.

Insurance

If you teach from home, you should contact your insurer to check that you're covered for business use. You will also need public liability insurance – schools will often ask to see your insurance certificate. Public liability insurance up to £10,000,000 is included with your subscription to either ISM or MU.

Pension

As previously mentioned, a huge advantage of being employed is enjoying a pension scheme – generally 23.68% paid by the employer and another 7.4% deducted from your salary and paid into your pension pot. If you want to match this as a self-employed person, you will be paying over 30% of your earnings into a private pension fund, though that figure will probably be unrealistic. A good rule of thumb is use half your age as a percentage to pay in – for example, if you're 30, pay in 15%, and if you're 50, pay in 25%.

When you pay into a private pension fund, the pension company will claim 20% tax relief and add it to your pension pot, so if you pay in £100, this instantly becomes worth £120.

Budgeting

If you teach in schools and invoice at the start of each term, you'll receive three large chunks of money, in September, January and April. Because of the long summer holiday, the April money will have to last about five months, and during that time you'll have a tax bill to pay in July. It goes without saying that, however tempting, you shouldn't spend these chunks of money all at once.

A good plan is to have a second business bank account and set up a monthly standing order which pays into your personal account the amount of your annual earnings, divided by 15. This will give you 12 monthly instalments, and leave three to cover your tax bills and, if there's money left over, you can pay an extra lump into your pension pot (or treat yourself to a holiday).

Conclusion

As we've seen, we need to be highly organised in order to run our business effectively. Our diary needs to be up to date, and we must keep a careful track of our invoices and payments. We also need to be aware of fundamental issues such as employment status, and its implications on our rights. In part two of this survey of self-employment, I'll examine the thorny issue of setting rates of pay.

Finally, it is highly recommended that you join a professional organisation, such as ISM or the MU, both of which will give you useful advice and support.