**What is employment?**

20.    For Access to Work (AtW) purposes, employment is:

   full or part-time paid work, whether permanent, casual or temporary;

   a Work Trial arranged by Jobcentre Plus;

   work in an unsupported or supported environment. There are some exceptions in the rules for Work Choice

   not voluntary work

    some councillors and other elected officials, or appointees who have applied for positions on public organisation’s boards;

   not trainingexcept for training related to the customer’s current, paid employment and undertaken whilst the applicant is in receipt of normal wages for the job.

21.    To be eligible for support employed customers must:

   have a contract of employment;

   be paid at least the [National Minimum Wage](http://www.berr.gov.uk/whatwedo/employment/pay/national-minimum-wage/index.html); or

   where a customer is going for a job interview or has just started a job and payslips / contracts are not yet available, you may accept the job offer letter or letter confirming the interview or job start date as evidence.

22.    During the initial contact with the customer it will not be necessary to verify employment for every case. If at this stage there are doubts about the employment, advise the customer to provide evidence with their application. The evidence will be considered by the AtW adviser who assesses the customer’s requirements for support.

23.    Where the employer is a ministerial government department, including the Dept for Work and Pensions (DWP), or one of its agencies funding of adjustments will be made by the employing department.

24.    All applicants who are registered with an agency must have a job to start before they can be eligible for support.

25.    You must not approve any type of AtW support if you have evidence that a company is about to cease trading.

**What is self–employment?**

34.    For Access to Work (AtW) purposes, self-employment is:

   operating a business either on the customer’s own account or in partnership, or working for an employer on a self-employed contractual basis;

   operating a franchised business on a self-employed basis;

   paying Class II National Insurance contributions.

35.    If the applicant is employed by a company that they themselves own, but draw a salary taxed at source and pay Class 1 National Insurance contributions, they are employed not self-employed. If they pay Class 2 or Class 4 they are self-employed.

36.    Work can be done:

    from home;

   on their own premises; or

   on premises owned or leased by someone else; or

   on a travelling basis, for example a piano tuner.

37.    If the applicant is over retirement age (and therefore no longer liable to pay National Insurance) you must be satisfied that the customer is self-employed by requesting a business plan approved by a bank or other financial authority.

38.    Access to Work cannot pay for the costs of setting up a business such as standard items of equipment, support for fact-finding, attending courses, seminars or similar events while the business is being formed.

**HM Revenue and Customs checks for self-employment**

40. To ensure consistency in determining whether an applicant is self employed,

you can rely on the HM Revenue and Customs treatment of the

applicants employment circumstances :

 if someone is employed, they will be taxed under PAYE rules and their

employer will pay Class1 National Insurance contributions under the

same PAYE rules, self-employed people will be taxed under the Self

Assessment rules and have a Unique Tax Reference (UTR) number

for that purpose. They will also be managing their Class 2/4

contributions through arrangements with the HMRC National Insurance

Contributions Office;

 for Access to Work purposes, all applicants who state they are self employed

must provide proof of self-employment. This may be in the

form of:

 Their UTR - a unique 10 digit Tax Reference;

 a National Insurance bill (or other correspondence) for Class 2 NICs

from HM Revenue and Customs;

 for cases where an applicant is unable to provide either of the above,

the HM Revenue and Customs National Insurance Contributions Office

should be contacted on 0845 915 6734 with details of the applicants

name, address, date of birth and National Insurance number. **This**

**number must only be used by Jobcentre Plus to ascertain if a**

**customer is registered as self employed and not to investigate**

**their self employed status**.

**Profitability**

41. There is no requirement for a self employed customer’s business to be

profitable within a specified timescale. Their business must have a history of,

or a reasonable prospect of generating income, but there is no lower limit on

that income.

42. If an adviser has doubts about the customer’s prospects in self

employment, they can decide to put AtW support in place for a limited time e.g.

3 months and then review the case to confirm that it still has a reasonable

prospect of generating income.

**Cost Share - Freelance Workers**

570. Other customers such as actors or people with technical jobs in the

arts and media industries may have a series of employers or a series of short

contracts with one employer. To avoid repeatedly approving support for each

short contract with each employer these customers are identified as

Freelance workers. If the adviser has doubts about whether the customer is

genuinely working on a freelance basis they can request sight of supporting

documents, for example the customer’s membership of a relevant

professional body or union as confirmation, an appointment letter from the

employer or the customers self employed tax reference. Copies of documents

used to support the AtW application should be stored in the case file.

Freelance workers are treated in the same way as self employed customers

and should be recorded as self employed on DiSC.

**Self employment**

577. Customers who become self employed during the 3 year AtW period

cease to be subject to cost share, but a voluntary contribution should always

be requested.

Note: Customers who set up their own limited company and use PAYE are

treated as employed.

**Complete Business Case - Freelance Workers**

614. Other customers such as actors or people with technical jobs in the

arts and media industries may have a series of employers or a series of short

contracts with one employer. These customers are identified as Freelance

workers. Freelance workers are treated in the same way as self employed

customers and are recorded as self employed on DiSC. No compulsory cost

share will apply and AtW will not have to renegotiate the cost share with each

successive employer.