

# Off Payroll Working Procedure

Version – v2 – February 2023

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**Parent Policy Statement** – Finance Policy Statement

**Public Access or Staff Only Access** – Public

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**Changes and Reason for Changes** – Minor changes made including examples of intermediary.



## OFF PAYROLL WORKING PROCEDURE

### 1. Background

- 1.1 The off-payroll working rules can apply if a worker (sometimes known as a contractor) provides their services through their own limited company or another type of intermediary to the client.
- 1.2 An intermediary will usually be the worker's own personal service company, but could also be any of the following:
  - a partnership
  - a personal service company<sup>1</sup>
  - an agency or umbrella company
  - a personal service company via an agency or umbrella company
  - an individual
- 1.3 The rules make sure that workers, who would have been an employee if they were providing their services directly to the client, pay broadly the same Income Tax and National Insurance contributions as employees. These rules are sometimes known as 'IR35'.

Full [HMRC guidance](#) is available.

### 2. Introduction

- 2.1. This procedure provides guidance and sets out responsibilities on the 'employment status for tax purposes' checks that the University has a legal obligation to conduct.
- 2.2. This procedure applies to all University staff, where they are looking to contract for services directly with an individual that is resident in the UK for tax purposes.
- 2.3. For the purposes of this procedure, the 'engager' is the hiring manager or University staff member who is looking to enter into the contract with an individual to provide a service for the University. The individual service provided will be known as the 'contractor'.
- 2.4. This off payroll working procedure applies to all engagements for services directly with an individual regardless of whether the service is provided by a self-employed individual, or with an individual via an agency, company or partnership.

<sup>1</sup>Personal service companies include when individuals, associates or family members (can include unmarried partners):

- Control, or have ability to control, more than 5% of the ordinary share capital of the company directly or indirectly; or
- Have, or are entitled to acquire, rights to receive more than 5% of any dividends from the company; or
- Possess, or are entitled to acquire, rights over more than 5% of the assets that would be available for distribution if the company is wound up (close companies only); or
- Receive, or could receive, payments or benefits directly or indirectly from the intermediary that could reasonably be taken to represent payment for the services the individual provides to clients.

### 3. Off Payroll Working Procurement Process

When an engager from the University is looking to acquire the services of an individual that is a UK resident for tax purposes, the following process should be followed:

- 3.1 At least 1 week prior to the commencement of the service the engager must contact the IR35 mailbox ([IR35@uws.ac.uk](mailto:IR35@uws.ac.uk)) to request an 'Employment Status for tax purposes' check. Failure to do this could result in significant delays to payments to the contractor providing the service. At this stage the engager will be sent out a Check Employment Status for Tax 'CEST' Questionnaire to complete.
- 3.2 The engager will be asked to provide any contract and associated terms and schedules covering the engagement along with the completed CEST questionnaire to the IR35 mailbox.
- 3.3 For most cases a member of the Finance Team will be able to provide an 'Employment Status for Tax' determination to the engager and the contractor based on the information provided. Where Finance deems appropriate, it may be necessary to have a short 15-minute call or meeting between Finance and the engager before a determination is provided.
- 3.4 The contractor (and all agencies in the supply chain if the contractor is via an agency) will be issued with a Status Determination Statement from the University. This will confirm:
  - For contractors providing a service via a company or agency that the IR35 legislation applies or does not apply.
  - For self-employed contractors providing a service whether or not the individual is deemed employed for tax purposes.
- 3.5 Where the IR35 legislation is deemed to apply or the individual is a deemed employee for tax purposes, a new starter checklist will be sent to the contractor. This must be completed and returned to the IR35 mailbox along with the contractor's invoice. In cases where the IR35 legislation does not apply or the individual is self-employed for tax purposes, all invoices should be sent to [accountspayable@uws.ac.uk](mailto:accountspayable@uws.ac.uk) for processing once purchase requisitions have been raised and approved.
- 3.6 A contractor can formally challenge their Status Determination. In such circumstances a separate individual from Finance will review the engagement and provide a final Employment Status for Tax determination within 45 days. If work commences during this time, the contractor will be paid as per the outcome of the initial Status Determination Statement.
- 3.7 Where an engagement with a contractor is amended or extended or a new assignment commences with the same individual, the engager must contact the IR35 mailbox to commence the Off Payroll Working Procurement Process again.

#### **4. Off Payroll Working Finance Process**

- 4.1 A record of all Employment Status for Tax Purposes will be logged by Finance. This will include the name of the contractor, the date the Status Determination Statement was issued, the outcome reached and reasons for the determination. Copies of all statements issued and documentation in support of the determination will be retained by Finance and kept in accordance with the department's record retention schedule.
- 4.2 A review of all assessments issued to individuals providing services to the University will be conducted annually by the Finance Department. Engagers will be contacted at this time in order to ensure that there is no change to the circumstances of each engagement which may affect the contractor's Employment Status for Tax determination.