



HM Revenue & Customs

Ms Helen Ashworth

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Dear Ms Ashworth

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 7 October, for the following information:

“You have stated in your response to FOI2020/01611 that 13 contractors engaged by HMRC were highly likely to be current or previous users of a DR Scheme.

Please provide – without supplying the names of any individual – the dates that each of these 13 staff were engaged. Their start date and their end date of engagement with either HMRC and or RCDTS, or suppliers of services to HMRC and or RCDTS.

In the same FOI request/response you state that there were 5 other contractors who had previously been engaged by HMRC and who had a history of using DR avoidance schemes.

Please provide – without supplying the names of any individual – the dates that each of these 5 staff were engaged. Their start date and their end date of engagement with either HMRC and or RCDTS, or suppliers of services to HMRC and or RCDTS.

Please provide evidence that any payments made to these 5 contractors were not via umbrella schemes offering loan arrangements.”

In November 2018, responding to a letter from the House of Lords Economic Affairs Committee, Ruth Stanier, Director General of Customer Strategy and Tax Design set out that:

‘HMRC has never participated in disguised remuneration tax avoidance schemes, for example by remunerating contractors through loans or payments to trusts. It is possible for contractors to use disguised remuneration without the participation or knowledge of their engager. Any HMRC contractor identified in the course of our compliance work as using a disguised remuneration scheme would be investigated in the same way as any other contractor.’

The majority of HMRC’s contracts are for contingent labour via an agency, and we use the Crown Commercial Service’s framework contracts for this. These contractors form a flexible complement to our workforce, sourced through an employment agency.

With contingent labour there is always at least one agency between HMRC and the individual contractor, although in practice this contract can be further sub-contracted, meaning there are multiple agencies between the department and the contractor themselves.

There are other contractors who provide services as part of fully contracted out professional service provisions. In these circumstances, the arrangement is between HMRC and the supplier. The contractors then have their own arrangements with and are directly managed by the supplier.

As HMRC are not involved in the payment arrangements between their suppliers and individual contractors the department have not and could not have participated in such avoidance schemes.

However, as Ruth acknowledged in her letter, HMRC are not privy to the arrangements between suppliers and their contractors, it is possible that a contractor might have used a disguised remuneration (DR) tax avoidance scheme without HMRC's knowledge. If HMRC discovered that a contractor had done so, in breach of our "Compliance with Tax Legislation" clauses, our policy would be to remove them from the department and deal with their tax affairs in the same way as any taxpayer who had used such a scheme.

To inform the letter from HMRC to the House of Lords Economic Affairs Committee, analysis of the contractor records held was completed. The analysis involved clashing the details of individual contractors against the list of known users of DR schemes. The result of this analysis would show whether a contractor had used a DR scheme.

HMRC's database of known avoidance scheme users is constantly updated and enriched. Also, the database of contractors is dynamic as new contractors are constantly being engaged and other contractors reach the end of their engagements.

Between November 2019 and July 2020, the analysis was run a further two times alongside further compliance activity. This analysis indicated a number of existing contractors where it was possible they were using a DR scheme. Compliance teams concluded that 13 contractors were highly likely to be current or previous users of a DR scheme. Details of this analysis is provided below:

Analysis conducted in November 2019 identified five contractors whose use of a DR scheme was concurrent with the time period of the provision of services to HMRC.

Contractor	Start date	End date
Contractor A	**/**/2017	**/11/2019
Contractor B	**/07/2018	**/11/2019
Contractor C	**/07/2018	**/11/2019
Contractor D	**/07/2018	**/11/2019
Contractor E	**/07/2018	**/06/2019

Please note that specific information which could lead to the identification of individuals has been withheld by virtue of section 40(2) FOIA.

Section 40(2) of the FOI Act, by virtue of section 40(3A), provides an absolute exemption for third party personal data, where disclosure would contravene any of the data protection principles set out in Article 5 of the General Data Protection Regulation (GDPR). The first data protection principle requires the disclosure of third-party personal data to be lawful, fair and transparent. We believe that releasing the information detailing the precise start and end dates for each engagement would breach the first data protection principle, since it would be unlawful and unfair to release the information.

HMRC/RCDTS acted promptly once it had been informed of the results of the cross-referencing exercise, terminating the four engagements which were ongoing at the time of discovery within two weeks of discovery.

Analysis conducted in April 2020 identified five contractors whose use of a DR scheme was concurrent with the time period of the provision of services to HMRC.

Contractor	Start date	End date
Contractor F	**/12/2019	**/04/2020
Contractor G	**/12/2019	**/04/2020
Contractor H	**/**/2019	**/04/2020
Contractor I	**/**/2019	**/04/2020
Contractor J	**/**/2018	**/04/2020

HMRC/RCDTS acted promptly once it had been informed of the results of the cross-referencing exercise, terminating the five engagements within two weeks of discovery.

This analysis in April 2020 identified a further two contractors where the use of a DR scheme had been concurrent with a period of their engagement but who were found to have subsequently amended their payment arrangements, assuring their ongoing tax compliance.

Contractor	Start date	End date
Contractor K	**/11/2017	N/A
Contractor L	**/08/2015	N/A

Whilst these engagements were not terminated due to the scheme usage not being current, these individuals would still be subject to the same tax compliance action by HMRC's Counter-Avoidance directorate in respect of their historic usage of a DR scheme as any other user of a DR scheme.

HMRC carries out due diligence checks on contingent workers in the same way as any other engager. We are working with our suppliers to tighten up the checks they perform before providing contractors to us. We continue to improve our compliance processes.

In July 2020, usage of a DR scheme by a further contractor (Contractor M) was identified as part of employment checks and the engagement was terminated within two weeks.

As has been previously provided, in November 2018, HMRC was aware of five individuals who had a history of using DR schemes and providing services to HMRC. HMRC records did not show these individuals to have utilised a scheme while services were provided to the department.

Contractor	Start date	End date	Period of scheme usage
Contractor N	**/05/2015	**/02/2017	2011/12 – 2012/13
Contractor O	**/05/2015	**/01/2018	2011/12 – 2014/15
Contractor P	**/01/2016	**/02/2017	2013/14 – 2014/15
Contractor Q	**/10/2016	**/05/2018	2011/12 – 2014/15
Contractor R	**/08/2015	N/A	2011/12 – 2012/13

In October 2020, a further analysis of these individuals using updated compliance information was provided.

Contractor	Start date	End date	Period of scheme usage
Contractor N	**/05/2015	**/02/2017	2011/12 – 2016/17
Contractor O	**/05/2015	**/01/2018	2011/12 – 2017/18
Contractor P	**/01/2016	**/02/2017	2013/14 – 2014/15
Contractor Q	**/10/2016	**/05/2018	2011/12 – 2014/15
Contractor R	**/08/2015	**/11/2019	2011/12 – 2012/13

This further analysis showed that in two cases, the usage of a DR scheme was concurrent with the provision of services to HMRC. These contractors were engaged to a supplier as part of a professional service contract rather than as contingent labour.

HMRC did not have a direct contractual relationship with any of the identified contractors and were not involved in the payment arrangements between the suppliers and the individual contractors.

As the contractors were no longer providing services to the department at the time of discovery no contracts were terminated however these individuals would be subject to the same compliance action taken against any other user of a DR scheme.

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review you can [complain to the Information Commissioner's Office](#).

Yours sincerely,

HM Revenue and Customs