

1. Engaging self-employed/sole traders and Personal Services Companies

A person's employment status, that is whether they are employed or self-employed, is not a matter of choice. Whether someone is employed depends upon the terms and conditions of the relevant engagement and City have adopted a mandated approach to minimise risk of legal challenge and to take account of the recent legislative changes on IR35, and the responsibility we have under the new criminal offence of failing to prevent tax evasion. From April 2017 individuals working through their own companies in the public sector are no longer responsible for deciding whether the intermediaries' legislation (IR35) applies. Instead, this responsibility lies with City, agency or third party that pays the worker's intermediary. City decides whether the rules apply to a contract and, if so, it must account for the liabilities through payroll and deduct and pay over the relevant tax and NICs. This change in legislation represents a significant shift in the compliance burden from individuals and their personal service companies to City (the engaging party).

Academic delivery:

City's mandated approach classifies all teaching, education, training or research related work to fall within employment and such within the scope of IR35.

The list of activities that fall within these four broad headings can be covered by roles such as professors, lecturers, researchers, assessors, trainers, coaches, mentors, actors, musicians, examiners, and invigilators.

These roles in addition to the core activities of teaching, lecturing or research, may undertake activities such as marking, coaching, mentoring, delivering or facilitating workshops, invigilation, supervision and review of papers.

These lists, while exhaustive are not meant to be an exclusive list but merely to provide the guidance that all activities in delivering teaching, education, training or research fall within employment in general and there are no exceptions to the rule. These activities fall within employment and the general expectation is to treat them as employment and they will be issued with an engagement agreement and schedules of work. The documentation will be prepared by Human Resources once appropriate sign off has taken place in the relevant School. Pay will be processed through payroll where PAYE will be applied.

Professional Services:

The same mandated approach applies to activities within Professional services, and in general where an individual is engaged as self-employed, sole trader, via a limited company or a limited liability partnership (personal service company) undertaking a role that would normally be fulfilled by an employee will be treated to fall within IR35, and the deductions will be made.

2. Appointment of people via Agencies

IR35 means that it is extremely costly to use people via Agencies, who are contracted as Personal Services Companies by the Agency. Therefore, every effort should be made to fill the position via Unitemps or direct recruitment.

If the Agency is the only route, and the individual is contracted by the Agency as a PSC, we will have to confirm to the Agency that they should treat the assignment as falling within the IR35 regulations. The decision to use an agency, has to have the direct approval of the Deputy Human Resources Director.

The process of dealing with the agency will be handled by HR, but in the meantime, the Budget Holder needs to ensure an e-req is passed through so that the Procurement team can advise on any further checks needed as soon as possible.

An Employment Status check on all such people is required to determine whether they should be treated as an employee or can be given a Purchase Order for the supply of their services.

For new suppliers, the employment status check is a requirement of setting up a new supplier.

It is via the e-req that these appointments receive Finance Approval.

3. Consultancy

Consultancy is a non-pay cost i.e. consultants are not employees. Consultancy is the provision of services by a company or partnership that provides professional or expert advice. A consultant will generally be engaged to provide a set of agreed deliverables within a defined time period. There should be an agreed rate of pay and schedule of when payments are due. Training will very often be provided by individuals or training consultants. If the consultant or training provider is an Individual then an Employment Status check is required.

4. Approval of Visiting Lecturer Appointments

The Deans are responsible for ensuring that there are sufficient staff available to deliver the teaching timetable. The requirement to use Visiting Lecturers and Guest Lecturers should be identified in the course of agreeing the following year's timetable, and a provision to cover these costs should be included in the Budget.

The process by which Visiting Lecturers are appointed uses the VT2000 system, and is managed by HR. There is a separate Visiting Lecturer approval process in each School. Teaching is ordinarily considered to be employment and Visiting lecturers are given employment contracts. The Visiting Lecturer contract should cover the majority of activities. If the VL is being required to perform additional activities, these can be requested via VT2000.

5. Approval of Guest Speakers

A Guest Speaker is an individual who is not employed by City and provides very occasional specialist talks based on their professional or academic expertise, and the content of which is not part of the core curriculum of a programme, and nor should it represent a whole programme. A Guest Speaker must not deliver talks on more than three occasions in a 3-month period, anywhere in the institution, an occasion is generally deemed to be for a duration of an hour. A greater frequency of visits or longer durations will require the speaker to be engaged as a Visiting Lecturer. The payment for such speakers should in general be a nominal sum to cover expenses.

There is an on-line form to use to request a payment for a Guest Speaker which requires Budget Holder approval.