

IR35 Intermediaries Legislation

From 6th April 2017, HMRC introduced new legislation regarding payments to “Off Payroll Workers”. The application of the tax rules known as IR35 (intermediaries legislation) applies regardless of the date worked or invoiced. The IR35 legislation affects “Off Payroll Workers” – often referred to as ‘workers operating through intermediaries such as a Personal Service Company (PSC) or a partnership’ - and currently applies in the public sector..

As the school / academy is the end user of the worker’s services, they as the employing body becomes responsible for determining whether the engagement or contract falls within the scope of the IR35 legislation, not the worker. Where the employing body deems an engagement falls within these rules, the employing body is responsible for deducting Income Tax and National Insurance Contributions (NIC’s) from the workers invoice and paying the contributions to HMRC. The employing body is also responsible for performing this assessment, on behalf of any agency, for any workers they supply to the employing body who they engage through a PSC or partnership.

Various briefings and presentations were held for Head Teachers and Business Managers during 2017-18 and we have now produced a step by step guide to assist you with the process.

The steps to be followed are:

Step 1

The employing body needs to identify the workers currently engaged; who are NOT on your payroll and what the terms and conditions of their engagement is with you. This also includes workers who were previously classed as self-employed. You will need to consider the work undertaken, the organisation the worker is supplied by or operates as (see their previous invoices), and how their work is managed by you. Please ensure all documentation is stored and retained locally in case of inspection by HMRC.

Step 2

Use the information from Step 1 to complete the HMRC’s [Check Employment Status for Tax](#) tool to confirm the status of the worker’s engagement under the new IR35 rules. The procedure from the old Employment Status Indicator (ESI) is changing under the new IR35 rules and as the employing body you are required to conduct the employment status test. The workers affected can be categorised as follows:

- Self-employed individuals
- Individuals via intermediaries (including limited companies, partnerships and others)
- Individual engagements via Agencies

Please Note: If the HMRC’s [‘Check Employment Status for Tax’](#) tool identifies the intermediaries legislation does not apply to this engagement or this engagement should be classed as self-employed for tax purposes there is no change to payments.

Step 3

Print out and securely retain the results of the HMRC’s [‘Check Employment Status for Tax’](#) tool as you will need to discuss this with the worker. The employing body will be responsible to retain all records and print outs in case of future HMRC inspection.

Step 4

Depending upon the outcome of the HMRC's '[Check Employment Status for Tax](#)' test the employing body will identify if the new hire is out of scope or in scope.

Step 5

Out of Scope

The following template can be used where a school has carried out the ESS test and determined the engagement to be out of scope.

- [Out of Scope for IR35](#)

Step 6

In Scope

This letter can be used where a school has carried out the ESS test and determined the intermediaries legislation applies to this engagement to be in scope for IR35.

- [In Scope for IR35](#)

Step 7

This letter can be used where an agency is currently supplying workers to a school and the school have determined the engagement is in scope of IR35

- [Determination Letter for Agencies](#)

This letter can be used in circumstances where an agency is currently supplying workers to a school but has confirmed none of its workers supplied are via PSCs.

- [Determination Letter for Agencies \(Currently Out of Scope\)](#)

Step 8

If the employing body determines the payments fall within the intermediaries legislation and so will be processed through Payroll an engagement Agreement can be issued.

- [Engagement Contract Template Letter](#)

Please Note: All the attached letters are “templates only” and can / should be adapted depending on the outcome.

Step 9

If the employing body determines the payments to the worker are to be processed through Payroll, the relevant details using the attached [Hiring Form](#) and send via email to the following mailbox by the [schools contractual change deadline](#) of each month:

IR35Hiring@birmingham.gov.uk

When the worker has been set up on the payroll, you will receive an email with the worker's payroll reference number from Schools HR.....

Step 10

Once received the payroll number should be written on the invoice to be paid, together with the employing body 12 digit expenditure code and the bank details of the worker. If possible, the following [Invoice Template](#) should be used by the worker.

Step 11

The invoice to be paid must be emailed to the following mailbox: IR35Payments@birmingham.gov.uk by the 10th of each month to ensure payment is made in the next payroll run. Please see [Payroll Closedown Dates](#)

Step 12

Payroll will check the mailbox on a daily basis and assess the invoice for VAT and amount of pay relating to the work carried out.

Non-Cheque Book school: If the employing body is Non-Cheque Book, the VAT will be paid by the Accounts Payable Team and Payroll will pay the worker accordingly into their bank account in the next payroll run. Please see the [process map](#) for further details.

Cheque Book, External Payments Account (EPA) or Academy: If the employing body is a cheque book, EPA or academy. The VAT must be paid by the employing body and Payroll will process the pay to the worker into their bank account in the next payroll run. Please see the [process map](#) for further details.

Please see [Payroll Closedown Dates](#) for deadlines.

Please note: Payments will attract Income Tax at 20% and may be subject to National Insurance, Employees & Employers Contributions. See [Full details of thresholds](#) are provided by HRMC.

Payroll will send the details of the workers payment to HMRC each month via the Real Time Information (RTI) Process.

The worker paid through the payroll will receive a payslip to their home address

Step 13

If the employing body confirms the worker is no longer engaged they should send an email to the IR35 mailbox:

IR35hiring@birmingham.gov.uk

Payroll will then issue the P45 to the workers' home address.

Payroll are available to help and support you through this process and if you have any queries please email.