



# HM Revenue & Customs

Mr George Cruickshanks

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Date: 5 October 2020  
Our ref: FOI2020/01611

Dear Mr Cruickshanks

## **Freedom of Information Act 2000 (FOIA)**

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

“Please can you supply me with any information that you have Regarding the utilisation of umbrella companies or agencies that used disguised remuneration within HMRC & RCDTS LTD since 2010, when according to the Morse inquiry, the law became clear with regards to their usage.

I would like the information to contain, but not limited to, audit reports for HMRC and subsidiaries where comments and observations of such schemes exist.”

Where this letter refers to contractors of HMRC, this includes Revenue and Customs Digital Technology Services Ltd.

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.

All contracts with agencies supplying contractors to HMRC include standard tax compliance clauses. This is for both fully contracted out provision and contingent labour. There is also clear guidance around tax compliance and what checks will be completed on anybody supplying labour to HMRC on GOV.UK.

Any engagement of a supplier to HMRC will result in mandatory tax compliance checks being carried out. As HMRC's agreement will be with a supplier or agency this will be on the company itself and its directors rather than individual contractors.

However, prior to a contingent worker commencing an assignment with HMRC, they must acknowledge acceptance of clauses regarding "Compliance with Tax Legislation". This requires the worker to declare acceptance of a number of terms, including that "[the worker] complies with its obligations under [the Disclosure of Tax Avoidance Schemes rules] and is not involved in any way in any arrangement that is contrary to [the General Anti-Abuse Rule] or any arrangement which has been spotlighted by HMRC as an unlawful tax avoidance scheme."

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. On that basis HMRC does not hold information regarding the 'usage of disguised remuneration within the HMRC' because, as Ruth Stanier said in her letter to the HoL EAC, we have never used such tax 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.

It may help if I explain that, to inform the letter from HMRC to the House of Lords Economic Affairs Committee, analysis of the contractor records held was completed. In accordance with departmental retention policy, and in preparation for ensuring compliance with the 2017 reforms to the off-payroll working rules, HMRC held a complete central record of departmental contractor engagements from 2016. 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.

This work identified five contractors who had a history of using DR avoidance schemes and had previously been engaged by HMRC. In all cases, the periods of scheme usage did not run concurrently with the period for which they were engaged by HMRC. On this basis it was determined that HMRC did not hold any records of a contractor being engaged whilst using 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.

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

If you are not satisfied with this reply you may request a review within two months by emailing [foi.review@hmrc.gov.uk](mailto: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