



HM Revenue
& Customs



HM Treasury

Off-payroll working in the private sector

Consultation document

Publication date: 18 May 2018

Closing date for comment: 10 August 2018

Subject of this consultation:	An evaluation of the off-payroll working rules for engagements in the public sector and options for changes to the off-payroll working rules for engagements in the private sector.
Scope of this consultation:	We are asking for comments on how best to address the compliance challenges with the off-payroll working rules in the private sector. As well as your responses on all options discussed in the document we are particularly interested to hear how the off-payroll working rules as they apply in the public sector could be adapted to fit the needs of the private sector, if appropriate.
Who should read this:	People who work through an intermediary (for example their own personal service company (PSC)), agencies, companies, partnerships and individuals who are clients of people who work through their own intermediary. Accountants and other agents representing people who work through intermediaries or representing clients who pay workers engaged through intermediaries. HR managers and those who deal with recruitment processes and payroll.
Duration:	From 18 May 2018 to 10 August 2018.
How to respond or enquire about this consultation:	By email: offpayrollworking.intheprivatesectorconsultation@hmrc.gsi.gov.uk By post to IPD Employment Status and Intermediaries Policy, Room 3/46, 100 Parliament Street, London. SW1A 2BQ.
Additional ways to be involved:	HM Revenue & Customs (HMRC) will hold workshops with invited stakeholders during May to July 2018.
After the consultation:	A summary of the responses will be published later this year.
Getting to this stage:	A discussion document was published at Summer Budget 2015 to consider reforming the off-payroll working rules in response to widespread non-compliance. Following consultation, the off-payroll working rules for engagements in the public sector were introduced from 6 April 2017. The independent research evaluating the initial impact of that legislation is published with this consultation.
Previous engagement:	HMRC published a discussion document in July 2015. After considering the issues raised during that discussion, the government announced proposals to reform the rules at Budget 2016. HMRC consulted on the detail of those changes between 26 May and 18 August 2016, publishing responses on 5 December 2016. HMRC carried out a further technical consultation on the draft legislation and regulations in the form of a series of round table discussions with stakeholders between 5 December 2016 and 5 February 2017.

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1. Executive Summary

- 1.1. The off-payroll working rules were introduced in 2000 to ensure that those who work through a personal service company (PSC) who would have been employees if they were directly engaged, pay broadly the same employment taxes as if they were employed. The legislation requires the individual working through a PSC to determine whether or not they should be regarded as employed or self-employed. It does not affect how people who are genuinely self-employed are taxed.
- 1.2. There is evidence that this legislation is not working effectively, and non-compliance is widespread. HMRC estimates that only 10% of PSCs that should apply the legislation actually do so. This is unfair: two people doing the same job, in the same way, can end up paying very different levels of tax, depending on how they are engaged. The cost of non-compliance in the private sector is high and growing - projected to increase from £700 million in 2017/18 to £1.2 billion in 2022/23. This cost is increasing as the number of people working through PSCs continues to grow.
- 1.3. In April 2017, the government addressed non-compliance in the public sector by reforming the legislation for off-payroll workers in that sector. Evidence suggests that the public sector reform has been effective in increasing compliance. At Autumn Budget 2017, the government announced that it would consult on non-compliance in the private sector, drawing on the experience of the public sector reform, including the findings from independent research on the initial stages of implementation. The government is committed to learning from the experience of the public sector implementation. We will take account of the needs of businesses and individuals who would implement any change and are keen to hear from those who would be affected.
- 1.4. This consultation provides an early evaluation of the public sector reform and invites responses on how best to deal with non-compliance in the private sector.

2. Introduction¹

- 2.1. At Autumn Budget 2017, the government announced it will consult on how to tackle non-compliance with the off-payroll working rules for workers in the private sector. These rules are also commonly known as IR35, and are set out in the intermediaries legislation.²
- 2.2. Current legislation is not working effectively. The cost of non-compliance in the private sector is high and growing - projected to increase from £700 million in 2017/18 to £1.2 billion in 2022/23.
- 2.3. The off-payroll working rules were designed to ensure that, if someone works through an intermediary and would have been regarded, for income tax and NICs purposes, as an employee if they were directly engaged by the client, they pay broadly the same income tax and National Insurance Contributions (NICs) as if they were employed. These rules do not apply to people who are genuinely self-employed. Employment status is not a choice, it is determined by the facts of an engagement and the working practices. Those who are genuinely self-employed are, and will continue to be, treated as self-employed for tax purposes.
- 2.4. The government recognises that the UK's flexible labour market supports job creation and allows more people to participate in work. The option to work through an intermediary, including a PSC, helps support this labour market flexibility. The public sector reform did not stop people working through these structures. However, it is fair that people should pay the right tax for their circumstances.
- 2.5. The off-payroll working rules apply where the intermediary is another individual, a partnership, an unincorporated association or a company. The most common structure is a PSC, which is the term we have used throughout this document. The term "client" is used throughout this document to identify the organisation receiving the worker's services.
- 2.6. HMRC estimates that around a third of people working through their own company should fall within the rules and be taxed as employees. However, currently, only 10% of this group actually determine they should be taxed in this way. The PSC is solely responsible for making the determination on employment status, providing the means, opportunity and incentives for the wrong amount of tax to be paid. The PSC may not have the right skills or systems in place to make this determination. There are also incentives for the client to require the worker to provide their services through a PSC, as it reduces the client's tax burden. This all leads to high levels of non-compliance with the rules.

¹ An assessment of impacts has not been included in this document since this consultation is calling for evidence into viable options.

² The intermediaries legislation is contained in Part 2 Chapter 8, sections 48 to 61 (Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003)), and Part 1 of the Social Security Contributions (Intermediaries) Regulations 2000 (SI 2000 No 727) (Intermediaries Regulations).

- 2.7. Following the April 2017 changes to the off-payroll working rules for engagements in the public sector, the government would now like to explore options for tackling non-compliance in the private sector.
- 2.8. The consultation is divided into two main parts:
- Reviewing and evaluating the effectiveness of the April 2017 changes to the off-payroll working rules in the public sector; and
 - Exploring how best to tackle the continuing non-compliance with the rules in the private sector, including:
 - setting out the existing challenges faced in conducting compliance activity for the off-payroll working rules in the private sector; and
 - considering options to improve compliance, including seeking views on a possible next step of extending the public sector reform to the private sector and if so, how it might be adapted if this approach was pursued.
- 2.9. This consultation considers a number of potential options for tackling the high and growing levels of non-compliance with the off-payroll working rules in the private sector. However, the fundamental principles of the off-payroll working rules – that the employment status test determines who should be taxed as employees – are not being considered as part of this consultation. Similarly, this consultation will not consider wider reforms of the taxation of employees, the self-employed, or those who work through an intermediary.

Employment status consultation

- 2.10. Matthew Taylor was commissioned to lead a review considering how employment practices need to change in order to keep pace with modern business models, which was published in July 2017. This ‘Review of Modern Working Practices’ concluded that the current employment status framework can fall short of providing the clarity and certainty that individuals and businesses need.³ This is increasingly the case for those who are working in new, more flexible ways, including those working through the gig economy.⁴
- 2.11. While this consultation does not consider changes to the employment status tests, as part of the government’s response to the Review, a separate consultation was published to consider how we could achieve more certainty and clarity for individuals and businesses when determining employment status for both tax and employment rights purposes. You can find the employment status consultation here:
<https://www.gov.uk/government/consultations/employment-status>.
- 2.12. The employment status consultation considers the case for aligning employment status definitions across tax and employment rights, including the

³ The Review of modern working practices can be found at: [Good Work- The Taylor Review of Modern Working practices](#).

⁴ In “The characteristics of those in the gig economy”, BEIS Research Paper published 07/02/2018, the government has defined the “gig economy” as the ‘exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short-term and payment by task basis’.

impact on those deemed to be employees for tax purposes. Employment rights issues are therefore outside the scope of this consultation.

- 2.13. The government recognises that the interaction between the employment status tests for employment rights and tax is an important and complex issue, and so will work with stakeholders to ensure that any potential changes are considered carefully.

Growing cost to the Exchequer

- 2.14. Non-compliance with the off-payroll working rules is an immediate and growing cost to the Exchequer. If not tackled, this cost is projected to increase from £700 million in 2017/18 to £1.2 billion in 2022/23, which could otherwise be spent on vital public services. It is therefore right for the government to consider how this can be addressed now. Whatever the conclusion of the employment status consultation, the government is clear on the underlying principle that where an individual is working in the same way as an employee, they should pay broadly the same employment taxes as an employee.

3. Context

Growth in people working through companies

- 3.1. In recent years, more and more people are choosing to work through a limited company. The number of small companies with one or two directors has increased from around 250,000 in 2000, to over 1 million in 2015. The Office of Budget Responsibility referred to this increase in its *“Economic and fiscal outlook”* report in 2016,⁵ where it noted that “operating as a company is an increasingly common way to structure a business in a number of sectors – particularly construction, retail, IT, media and professional services.”
- 3.2. There are many good reasons why some people choose to work through a company. Limited liability restricts potential losses to the individual from work contracted through the company; it may make raising any necessary finance easier; and it can enhance credibility with potential clients.
- 3.3. However, people who provide their labour through their own company also pay less tax than either the self-employed or employees. In many instances this is correct and legitimate. However this can effectively mean that two people doing the same job, in the same way, can end up paying very different levels of income tax and NICs depending on how they are engaged. Research commissioned by HMRC suggests those potential income tax and NICs savings are one of the key reasons people choose to incorporate.⁶
- 3.4. In addition, the House of Lords *“Personal Services Companies”* report found that some employers require workers to provide their services through a PSC in order to avoid paying employer NICs.⁷ As well as resulting in losses to the Exchequer, this incentive can have negative consequences for workers who are required by employers to work through these structures.
- 3.5. The public sector reform transfers the liability for employer NICs to the client or agency who is responsible for deducting the correct taxes, to ensure that the worker and the client, or agency paying the worker, fulfil their tax obligations. Removing the incentive for clients to engage workers in this way makes it less financially rewarding to do so and should help protect workers in the longer term.

⁵ The OBR’s report can be found at: <http://cdn.obr.uk/Nov2016EFO.pdf>

⁶ The research: Reasons behind incorporation is available online at: <https://www.gov.uk/government/publications/reasons-behind-incorporation>

⁷ <https://publications.parliament.uk/pa/ld201314/ldselect/ldpersonal/160/160.pdf>

ILLUSTRATIVE EXAMPLE 1: The non-compliant off-payroll project manager

Charlie is a project manager working through a limited company (his own PSC). A private sector company, ABC Ltd, contract with Charlie's PSC from 6 April 2018 to 5 April 2019. Charlie's working practices are such that he would be an employee of ABC Ltd if he contracted directly with them. Charlie's PSC charges ABC Ltd £50,000 for his services, and his PSC is not registered for VAT. Charlie follows a typical strategy, paying himself an income tax and NICs efficient salary. Charlie's PSC pays corporation tax on the remaining payment from ABC Ltd; and he then chooses to distribute all remaining income from the work to himself as dividends. Charlie personally pays £2,119 in income tax. Charlie's PSC pays £7,899 in corporation tax. The total income tax and corporation tax paid would be £10,018.

Charlie is not currently compliant with the off-payroll working rules.

However, if Charlie was compliant, the total income tax and NICs (including employer NICs) due on the payment from ABC Ltd would be £15,041, having taken into account a 5% expenses deduction allowable under the off-payroll working rules in the private sector. As a result of Charlie's non-compliance on this engagement £5,023 less tax is paid. Charlie has not paid any NICs as the salary he has paid himself is at the same level as the primary/secondary NICs threshold.

Thomas is an employee of ABC Ltd, doing the same job as Charlie. Employing Thomas also costs ABC Ltd £50,000 a year, in salary and Employer NICs. The total income tax and NICs due (including employer NICs), from Thomas and ABC Ltd is £16,047. This means that, despite Charlie and Thomas doing the same job, the total income tax and NICs paid is £13,928 less as a result of Charlie's non-compliance. When corporation tax payments by Charlie's PSC are taken into account the total tax and NICs lost is £6,029. Both ABC Ltd for Charlie's services and Charlie pay less.

History of the off-payroll working rules

- 3.6. The off-payroll working rules were introduced in 2000. They were designed to ensure that people working through a PSC, who would have been regarded as employees if they were directly engaged by the client, pay broadly the same income tax and NICs as if they were employed.
- 3.7. If you worked through your own PSC the legislation required you to determine whether the rules apply. This is still the case in the private sector.
- 3.8. At Summer Budget 2015,⁸ the government said it was concerned that the off-payroll working rules were not working as effectively as they should. In July

⁸ <https://www.gov.uk/government/publications/summer-budget-2015/summer-budget-2015>

2015, HMRC published a discussion document to seek stakeholders' views on improving the effectiveness of those rules.⁹

Changes in the Public Sector from April 2017

- 3.9. At Budget 2016, the government announced that it would reform the off-payroll working rules for engagements in the public sector. This was followed by the publication of the consultation document, 'Off-payroll working in the public sector: reform of the intermediaries legislation'¹⁰ on 28 May 2016. The government published a summary of responses to that consultation in December 2016.¹¹
- 3.10. At Autumn Statement 2016, the government confirmed that it would introduce new rules from April 2017 for public sector engagements,¹² making public authorities responsible for determining whether the worker would have been regarded for income tax and NICs purposes as employees if they were engaged directly.
- 3.11. The purpose of these changes was to ensure the rules were applied more effectively, by placing the employment status determination in the hands of the public authority, who is most familiar with the work being done for them and the working practices. The public authority is also likely to already have employees and have experience of determining the employment status for those employees.
- 3.12. Determining employment status for income tax and NICs purposes depends upon the facts of each engagement, and while the decision is normally straightforward, in some cases it can be more complex. HMRC has developed a digital service, the Check employment status for tax (CEST) service,¹³ to help organisations and individuals make this decision. The CEST service was developed in consultation with a wide range of stakeholders including tax specialists, employment agencies and contractors themselves.
- 3.13. The public sector reform also makes the public authority or agency (the "fee-payer"), that pays the PSC, responsible for accounting for and paying income tax and NICs under PAYE to HMRC, on behalf of the worker. The public authority or fee-payer is better equipped to correctly operate PAYE when compared to the PSC because of their experience of running their organisations.

⁹ The 2015 discussion document can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446242/Intermediaries legislation_IR35-discussion_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446242/Intermediaries_legislation_IR35-discussion_document.pdf)

¹⁰ The 2016 consultation document can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526614/Off-payroll_working_public_sector-reform_intermediaries_legislation.pdf

¹¹ A full summary of responses with the government's response is available.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574562/Off-payroll_working_in_the_public_sector-reform_of_the_intermediaries_legislation_-_summary_of_responses.pdf

¹² <https://www.gov.uk/guidance/off-payroll-working-in-the-public-sector-reform-of-intermediaries-legislation>

¹³ CEST can be found at: <https://www.gov.uk/guidance/check-employment-status-for-tax>

Changes to compliance processes

- 3.14. Together with the public sector reform, and in response to the 2015 discussion document, HMRC has continued to explore ways to further strengthen its compliance response for engagements in the private sector, including by:
- increasing the number of IR35 enquiries
 - improving guidance
 - using anti-avoidance managed service company legislation to successfully challenge companies involved in pushing workers into working through PSCs and
 - working closely with public authorities to ensure adherence to tax rules
- 3.15. HMRC has created a specialist Employment Status and Intermediaries Team to better focus its resources and expertise to address non-compliance with the rules. However, despite these improvements, non-compliance in the private sector remains extensive and continues to grow, making it increasingly difficult to address this issue effectively through compliance activity alone.

4. Evaluating the effectiveness of the public sector reform

- 4.1. Before considering how best to tackle the issue of non-compliance with the off-payroll working rules in the private sector, it is sensible to first assess how effective the public sector reform has been at addressing the same problem.
- 4.2. In order to fully evaluate the effectiveness of the public sector reform, this chapter outlines:
 - evidence of the effect of the reform on non-compliance
 - evidence on the impact of the reform on public authorities, including external independent research
 - a discussion of how to further embed the reform in the public sector

Effect on non-compliance

- 4.3. One of the effects of the public sector reform is that affected workers should be taxed through PAYE by either their public sector client or their agency, depending on who pays their PSC. This means that one indicator of the reform being effective would be a clear increase in the number of individuals being taxed through PAYE in the public sector.
- 4.4. HMRC has analysed PAYE data covering the first 10 months of the reform, from April 2017 to February 2018. This shows that in any given month since the reform was introduced, there are an estimated 58,000 extra individuals who are paying income tax and NICs undertaking work for a public authority above expected levels. PAYE for some of these individuals is operated by the public authority, for others it is operated by an agency or umbrella company.¹⁴ The number of extra engagements from which PAYE has been remitted has been broadly stable in each month since the reform was introduced.
- 4.5. This increase in PAYE employment is also reflected in an increase in tax receipts. HMRC estimates that an additional £410 million of income tax and NICs has been remitted from these engagements, since the public sector reform was introduced. This means that, taking into account the corresponding impacts on corporation and dividend tax receipts, the reform is on course to increase overall Exchequer revenues by at least the level estimated at Spring Budget 2017.
- 4.6. In addition to the immediate effect on the number of employments and tax receipts, the public sector reform has also addressed many of the challenges that HMRC traditionally face in enforcing the off-payroll working rules (these challenges are described in Chapter 5).
- 4.7. In particular, the numbers of interventions required to reach the same number of PSCs are now significantly reduced. HMRC is now able to approach a client in order to obtain information on a large number of PSCs at once. Where necessary, HMRC can open a single enquiry covering multiple off-payroll

¹⁴ <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm2390>

workers engaged by that client, greatly improving the efficiency of the compliance process.

- 4.8. On the basis of this evidence, the government's assessment is that the public sector reform has been successful both in increasing tax compliance and resolving the compliance challenges faced by HMRC in enforcing the off-payroll working rules in the public sector.

Impact of the public sector reform

- 4.9. While the evidence suggests that the public sector reform has been effective in reducing non-compliance, concerns have been raised, both in response to the consultation on the planned reform, and since its implementation, about the potential impact on UK labour market flexibility, and the administrative burdens on clients and agencies.
- 4.10. While the government takes these concerns very seriously, much of the evidence presented so far has been anecdotal, and has not matched HMRC's own experience from working with public authorities as they have implemented the reform.
- 4.11. HMRC therefore commissioned [independent research](#) on the impacts of the initial stages of implementing the off-payroll working rules in the public sector, including administrative burdens. The findings of that research, published alongside this consultation, are summarised below.

Independent Research and Evaluation

- 4.12. As we consider the options for improving compliance in the private sector, we are committed to learning from experience. IFF Research and Frontier Economics were commissioned by HMRC to gather evidence on the experiences of public authorities in implementing the reform. The research looked at the key sectors of Public Administration & Defence, Education and Health & Social Work, and considered implications for employment, costs incurred and any process changes required.
- 4.13. The research consisted of a quantitative survey of 117 central bodies,¹⁵ (covering 4,095 sites) and 100 individual sites in the public sector, all of which had recent engagement with off-payroll workers. There were qualitative follow-up interviews with 30 respondents whose responses indicated they had been affected by the reform.
- 4.14. Survey fieldwork took place between August and October 2017. Given that the public sector reform only came into effect in April 2017, the findings are focused on the bedding-in period immediately after the reform came into effect and so reflect public authorities' very early experiences.
- 4.15. Overall the external research highlights that some public authorities experienced initial problems in implementing the reform. Some were unfamiliar

¹⁵ The term 'central bodies' refers to organisations who deal with the administration of the public sector reform for more than one site. For instance, an NHS trust could be responsible for managing the public sector reform across a number of different hospitals and practices. Research findings for central bodies are reported separately from individual sites that are only responsible for the administration of the public sector reform at their own site.

with the legislation and guidance, but almost all public authorities surveyed are now confident that they are complying with the reform (97% of central bodies and 90% of sites surveyed were confident they were complying with the reform by August 2017).

- 4.16. Half of public authorities report they found the public sector reform easy to comply with (central bodies: 49%, sites: 57%). Of those who found the reform easy to comply with, the most common reasons were that they had the right systems in place and HMRC's CEST service allowed them to make quick and easy assessments.¹⁶
- 4.17. However, a considerable proportion of public authorities did experience early difficulties in complying with the reform. Public authorities who found the reform difficult to implement most commonly attributed this to familiarisation with the legislation and HMRC's CEST service, although it was found that the functionality of CEST had improved for public authorities over time.¹⁷
- 4.18. The wider research findings suggest that the main difficulties were related to familiarisation with the public sector reform and resolving disputes with workers and agencies in the early stages of implementing those changes. The ability of public authorities to administer the off-payroll working rules in the public sector improved over time.
- 4.19. One of the concerns about the reform raised by stakeholders has been that public authorities were being overly cautious or judging more contractors as within the rules than they should be. The research did find that this could be a risk for a very small percentage of public authorities.¹⁸ However, the vast majority of public authorities were reported to be making assessments on a case-by-case basis (91% of central bodies and 87% of sites were making assessments on a case by case basis).
- 4.20. Others raised concerns about the impact the reform might have on the ability of public authorities to recruit the required number and skills of contractors and that, to do so, rates for off-payroll workers would need to be increased.
- 4.21. The research did find that some public authorities have found it harder to fill off-payroll vacancies since the reform was introduced (32% of central bodies and 22% of sites). This was particularly where there had been pre-existing challenges with recruitment. Similarly, some public authorities reported off-payroll worker rates had increased since April 2017 (28% of central bodies and 20% of sites). However, this was found in areas where skills were already known to be scarce.

¹⁶ 45% of central bodies and 28% of sites attributed the ease of complying with the reforms to having suitable systems in place. 34% of central bodies and 26% of sites associated it with CEST making it easy to make assessments.

¹⁷ 43% of central bodies that found compliance difficult said the most common factor was having difficulties using CEST. Sites were most likely to attribute their difficulties to not being confident in their understanding of the legislation (39%). Qualitative interviews indicated that difficulties associated with using CEST related to an early version of CEST, which was replaced with an improved version.

¹⁸ The research found that a small minority made determinations without conducting assessments. Qualitative interviews found that where public authorities had determined contracts to fall within the off-payroll working rules in the public sector without conducting assessments, it had typically been done for very short-term engagements (e.g. one-off services).

- 4.22. However, the research found that for most public authorities neither their ability to fill off-payroll worker vacancies, or the rates they pay them had changed since April 2017 (58% of central bodies and 70% of sites reported no change in the ability to fill vacancies; 63% of central bodies and 78% of sites experienced no change to contractor rates).
- 4.23. Finally, on administrative burdens, public authorities reported that there were initial costs in relation to setting up systems and processes required to implement the reform.¹⁹ The research also found that some public authorities have experienced ongoing administrative costs in order to continue to comply with the reform. However, some public authorities felt that these costs would decrease over time and many had experienced no additional costs beyond the initial set-up costs.²⁰

Embedding the public sector reform

- 4.24. In addition to the external research, HMRC have been working closely with public authorities to understand how the changes are bedding in and providing support and guidance as needed. As the public sector reform has bedded in, HMRC has found that more and more public authorities have developed internal expertise to reach sound employment status assessments for off-payroll workers without external advice. Increasingly, public authorities are also now specifying during recruitment processes whether a particular engagement is likely to fall within the off-payroll working rules.
- 4.25. HMRC has also worked to ensure that the CEST service is as helpful and accurate as possible. The CEST service was designed to strike a balance between providing an answer in most cases, whilst being simple and straightforward to use. It has been rigorously tested throughout development in conjunction with HMRC lawyers against live and settled cases and reflects employment status case law. It gives a clear answer as to whether a user is employed or self-employed in 85 percent of cases. For the remainder, HMRC provides detailed guidance and the specialist employment status helpline. The CEST service has been used over 750,000 times. HMRC's latest figures show that it gives a self-employed outcome around 60% of the time, and employed around 40% (based on February 2018 data). HMRC will stand by the determinations provided by the CEST service where it has been completed accurately and in accordance with HMRC's guidance.
- 4.26. HMRC's helplines have also helped large numbers of customers to understand how the public sector reform affected them and their workers. There was an increase in the volume of enquiries when the reform was first introduced. However the number of enquiries has decreased back to normal levels. The advice and support provided by HMRC's customer support services has helped

¹⁹ Average set up costs for central bodies was £7,550, and for sites was £3,250. However, the median average cost was low for central bodies (£250) and £0 for sites.

²⁰ Around half of central bodies (52%) and sites (56%) experienced either no change or a decrease in relation to the ongoing administration costs of off-payroll workers.

public authorities and workers become more familiar with the public sector reform over time.

- 4.27. Overall, based on the evidence outlined above, it is the government's assessment that the public sector reform has had the intended effect of improving compliance in the public sector, whilst recognising that public authorities and workers found some challenges in implementing the changes required.
- 4.28. HMRC continues to monitor how the reform is working, providing technical advice where necessary to public authorities applying the rules. Through this work we have identified areas where we may wish to make adjustments going forward. The government acknowledges that many public authorities would have preferred more time to prepare and adapt to such a significant reform. Chapter 6 contains specific questions exploring whether the design of the reform and the implementation process could be improved.

5. Compliance challenges in the private sector

- 5.1. In order to identify options to tackle non-compliance with the off-payroll working rules in the private sector it is important to first explore the challenges faced when attempting to address this problem through HMRC's current compliance processes.
- 5.2. HMRC dedicates specialist resources to compliance activity concerning PSCs. However, because of the way the off-payroll working rules currently operate for private sector engagements, where individual PSCs continue to be responsible for making the employment status determination, the enquiry and enforcement processes are typically costly and drawn-out. Successful cases often do not result in the full amount owed being recovered. There are a number of factors which contribute to this, which are set out below.

Needing to deal with each PSC individually

- 5.3. At present, when making enquiries into non-compliance in the private sector, each PSC needs to be dealt with individually, even where there are numerous workers engaged and working in the same way for a single client. This is clearly very inefficient and results in duplication of effort. A typical successful compliance case of this kind can take around 18 months from start to finish, and each case creates costs for the client, the PSC, and any agencies involved, as well as for the taxpayer more generally.
- 5.4. As well as being inefficient, this approach also makes it more difficult to ensure that employment status decisions are applied consistently and fairly across very similar cases.

ILLUSTRATIVE EXAMPLE 2: Inefficiency in the compliance enquiry process

As well as Charlie in illustrative example 1 (see Chapter 3) there are 99 other non-compliant project managers, undertaking the same work for ABC Ltd, in the same way as Charlie. In this example, HMRC activity to ensure compliance in that case could directly contribute to over £1 million in tax being recovered in total, however, this is in the form of £10,500 due from each of 100 workers. For each case the HMRC compliance caseworker would need to familiarise themselves with the contract, the working practices of the company etc. Each enquiry may run on different timeframes, resulting in 100 separate requests for information from the client; differences in contracts and working practices may take longer to establish, leading to delays in settling enquiries, and creating the possibility for inconsistencies between otherwise identical cases.

Perceptions about HMRC enquiries

- 5.5. For many off-payroll engagements, to which the rules should apply, there is the perception that there is very limited chance of enquiries being opened by HMRC.
- 5.6. There is also a prevailing feeling that the risk of being found to be non-compliant is low, leading to workers taking less care to ensure that they are complying with the rules.
- 5.7. The report into Personal Service Companies, published in 2014 by the House of Lords, noted that an entire industry has grown up advising companies on how to draft contracts which create the impression that a job falls outside of the off-payroll working rules. This industry includes the advertisement and sale of “IR35 proof” contracts or offers of “insurance” against HMRC finding them to be non-compliant with the legislation, helping individuals to feel, often incorrectly, that they are protected against any potential risks. The effect of individual perceptions and marketing of such products ultimately leads to more non-compliance.
- 5.8. This can result in protracted discussions during the stages of a compliance enquiry to agree the facts of a case. This can delay agreement on settlements based on a belief that the insurance purchased will cover the cost of defending the case, expert representation and any liabilities, penalties, and interest that could be found to be due.

Long time lags

- 5.9. Long time lags between when an engagement takes place and when tax on the income arising from it is due, create difficulties for HMRC in collecting the information. Establishing the facts needed to determine whether the correct tax has been paid, particularly where the worker no longer provides their services to the client is also an added challenge.

An enquiry is opened into a PSC's return for 2015/16 in 2017/18. The enquiry requires HMRC to understand the facts relating to an engagement undertaken in 2014/15 and ending in 2015/16. As a result the client may be contacted for information nearly two years after the engagement has ended. The client in question has not kept records of the working practices as they were not responsible for determining whether the worker would have been regarded as an employee for income tax and NICs purposes. In order to establish the facts HMRC needs to talk to the person responsible for the day to day activities of the worker. Due to the elapsed time that person no longer works for the client organisation.

Fragmentation of responsibilities

- 5.10. The fragmentation of responsibilities within the labour supply chain results in lengthy, complicated enquiry processes. For example, in many supply chains, different parties have the responsibility for how the work is carried out, how work is supplied, and for ensuring the correct tax is paid, meaning HMRC has to interact with multiple parties within the supply chain.

In a recent off-payroll compliance case HMRC needed information from the client and two separate agencies about one individual in respect of a single contract. The client and one agency were co-operative and agreed to attend a meeting and provide information. The second agency in the supply chain was not so co-operative. HMRC sought the agreement of the “first party” – the PSC – to approach the second agency for information. This request was refused, so HMRC then had to seek the approval of the tax tribunal to issue a formal Information Notice to the second agency. The Tribunal gave its approval and so the information gathering exercise could continue. The need to engage with several parties involved in the supply chain from the worker to the client adds delay and complexity to the investigation process.

Challenges in collecting the tax due

- 5.11. An additional challenge for HMRC is that, once a tax liability has been established, HMRC must recover the amount due from the PSC. However, the PSC will often no longer have the means to pay liabilities, especially given that a substantial amount of time is likely to have passed since the worker actually performed the work.
- 5.12. In some cases this can lead to more delays in recovering the liabilities, and in others it can ultimately mean the tax due is not able to be collected, depriving the Exchequer of money to fund public services.

There are cases where an enquiry concludes with the PSC, a limited company, receiving a large bill. The company in question is then dissolved leaving the bill unpaid. The following day, the same company director registers a new company at Companies House, and then continues to trade in the same way as previously.

Other cases have demonstrated that the PSC can also lack the administrative capacity to comply with its responsibilities and operate PAYE properly.

Consequences of the compliance challenges

- 5.13. These challenges have created a vicious cycle, as the large numbers of non-compliant individuals perceive the risks from HMRC compliance activity to be low, and current compliance processes cannot be scaled-up efficiently to address this problem. The result is endemic non-compliance for off-payroll engagements in the private sector.

- 5.14. Ensuring compliance in the private sector under the current rules and process is economically inefficient for HMRC and burdensome for all involved. This is not fair to the compliant tax paying population, who ultimately have to bear the costs from others not paying the correct tax.

Improving the current compliance process

- 5.15. While these challenges are significant, HMRC would like to explore whether there are improvements that could be made to the enquiry process that could contribute to reducing the levels of non-compliance in the private sector.
- 5.16. Any changes would need to result in the time and cost of compliance activity being reduced, and a greater proportion of the income tax and NICs owed being collected. Changes would also need to raise the deterrent to non-compliance and deliver greater fairness of outcomes within the tax system. This could ultimately lead to overall net burdens to clients, agencies and PSCs being reduced.
- 5.17. The government considers that the off-payroll working rules for the private sector are likely to require reform, but irrespective of what other action the government takes in this area, we would welcome views on where there could be improvements to the compliance process.

Q1. What could be done to improve the compliance enquiry process to reduce non-compliance, whilst safeguarding the rights of customers?

6. Options to tackle non-compliance with the off-payroll working rules in the private sector

- 6.1. In order to evaluate any potential options for addressing non-compliance with the off-payroll working rules in the private sector, the government has identified the criteria that any solution would need to meet in order to tackle the problem. The government believes that, to be effective, any solution should:
- address or mitigate the compliance challenges set out in the previous chapter, for example the need to deal with each PSC individually
 - be efficient for HMRC to enforce, providing value for money for the tax payer and
 - not be disproportionately burdensome to administer for clients, PSCs, and agencies
- 6.2. There are a number of potential options, set out below, that may meet at least some of these criteria. The government welcomes views on these options.

Extending the public sector reform to the private sector

- 6.3. As set out in Chapter 4, the government believes that the available evidence shows that the public sector reform has been effective in tackling non-compliance with the off-payroll working rules.
- 6.4. The public sector reform makes public authorities responsible for determining whether the worker would have been regarded as an employee for income tax and NICs purposes if they had been engaged directly. This change helps enable the right tax to be paid, as the public authority is best placed to make the determination. Transferring the liability for employer NICs from the PSC to the client or fee-payer has also reduced the risk of workers being drawn into inappropriate structures they may be poorly equipped to run.
- 6.5. The public sector reform also makes the public authority, or agency where one is involved, responsible for deducting the relevant income tax and NICs and paying them and employer NICs to HMRC, if the off-payroll working rules apply. This makes the collection of taxes on behalf of HMRC more efficient, and removes the requirement from the PSC, which often lacks the administrative capacity to operate PAYE.
- 6.6. The public authority is required to take reasonable care in making its determination or risk the liability to pay the income tax and NICs transferring to them from the fee-payer (if that is someone else). Similarly, if a determination has not been made in the first place, the public authority also risks becoming liable to pay the income tax and NICs.
- 6.7. By transferring the liability to the public authority in this way, it has a responsibility and incentive to ensure that the rules are operated correctly. It also ensures they have the evidence and means to collect the information they

- need to make a decision about the employment status of the engagement in real time, allowing the right tax to be paid at the right time.
- 6.8. In addition, where mistakes are identified and reasonable care has not been taken, the liability can be effectively enforced against the public authority or agency. This reduces the need for lengthy compliance activity against the PSC, which might not have the funds to pay any debts that are later found to be due.
 - 6.9. The government considers extension of similar reform to the private sector to be the lead option which will effectively tackle non-compliance. As set out in Chapter 4, the government recognises that public authorities faced challenges in implementing the reform and that this is a concern for businesses and individuals working in the private sector. We would therefore like to explore whether the design of the reform and the implementation process could be improved.
 - 6.10. For example, HMRC has found that some agencies have disregarded the public authority's determination about the worker's employment status and chosen not to operate PAYE. There may be valid reasons why the public sector rules do not apply, as the fee-payer is required to consider other criteria other than the employment status of the worker. However, the agency should not disregard the employment status determination made by the public authority. An incorrect decision that the rules should not apply could represent a failure by the agency to operate PAYE. HMRC could, having fully explored the reasons, look to use its powers to recover the tax due through compliance activity.
 - 6.11. Given these points, the government is seeking views on whether, if this option were to be taken forward, the public sector reform could be improved, and whether it might be adjusted for the private sector.

Q2. Could the public sector reform better fit the needs of businesses? How?

Q3. What if any, changes could help make the administration as simple as possible?

Q4. If the private sector rules were changed, do you have any evidence that there are parts of the private sector where the administration of any regime may need to vary, even though the basic principles including for determining status, remain the same?

Q5. Is there any evidence that parts of the private sector will not have, or be able to acquire the administrative capacity, knowledge and resources to enable them to implement any changes in relation to off-payroll workers?

Q6. How could these difficulties be mitigated?

Q7. What aspects of policy design might be adjusted if similar changes were brought in for the private sector? Should we bring in a specific penalty if agencies fail to comply?

Q8. What action should be taken in the case where the fee-payer hasn't acted upon the client's conclusion that the worker would have been regarded as an employee for income tax and NICs purposes if engaged directly? Should an obligation be placed upon the fee-payer to adopt the client's conclusion and there be sanctions for failing to do so?

Q9. What action should be taken if the worker or PSC is knowingly receiving income that has not had the right amount of tax and NICs deducted?

- 6.12. The external research showed that the process of implementing the public sector reform placed some burdens on public authorities, e.g. familiarisation with those changes and disputes over existing contracts. HMRC supported public authorities who needed to implement the rules, for example through publishing guidance to assist in making determinations.
- 6.13. The government acknowledges that the public sector reform has introduced an additional administrative process for public authorities who need to administer the rules. Given this, the government is seeking views on whether there is anything else that HMRC could do to ease the implementation process, should similar reform be extended to the private sector.

- Q10. What systems and process changes would businesses need to make?
- Q11. Would there be any process and administrative cost implications for businesses? Can you provide evidence of the scale and nature of these?
- Q12. Can you provide any evidence that these costs would vary depending on how much notice businesses were provided for the introduction of any reform?
- Q13. Is there anything else HMRC could do to ease the implementation for businesses, and can you provide evidence of how this would ease implementation or administration for businesses?

Encouraging or requiring businesses to secure their labour supply chains

- 6.14. A different approach to tackling the issue of non-compliance in the private sector would be to encourage, or require, businesses to help ensure that off-payroll workers provided to them through their labour supply chains are complying with the off-payroll working rules in the private sector.
- 6.15. The fiscal and reputational risks associated with labour supply chains are already being tackled across government in a variety of ways.
- 6.16. HMRC's guidance "Use of labour providers: advice on due diligence"²¹ recommends checks to be undertaken on the labour supply chain to ensure that it is compliant with a variety of employment and, in some cases, tax laws. Some of these checks could be relevant to the off-payroll working rules, in particular:
- making sure the labour supply chain is commercially sustainable so it can meet statutory tax obligations and make a profit
 - checking the history of the labour supply business - if a previous business failed because it did not pay its tax debts, what changed to stop this happening again?
 - adding a clause in the contract requiring labour suppliers to show evidence of the PAYE returns filed and payments they have made to HMRC
 - adding a clause in the contract requiring authorisation of further sub-contracting before any of the suppliers to be made are sub-contracted to a third party labour provider
 - adding a clause in the contract preventing the use of offshore intermediaries

²¹ <https://www.gov.uk/government/publications/use-of-labour-providers>

- where workers supplied by agencies are being treated as self-employed, deciding if the [agency rules](#) apply
 - ensuring the agency has complied with [employment intermediary reporting requirements](#) and has evidence of submitted reports to HMRC where they do not operate PAYE (this includes where they use an umbrella company)
- 6.17. One option that could be explored would be for the government to introduce rules to require clients to assure the compliance of their labour supply chains by carrying out some or all of the above checks. In addition, clients could be required to ask the PSC to provide a completed CEST determination and to check the outcome against the working practices of the individual carrying out the role in question. These could apply to the simplest situation where the client engages with the PSC directly, to the most complex case where there may be a labour supply chain which includes several agencies.
- 6.18. The requirement could be underpinned by some form of penalty, or by denying the client a deduction for the costs of using labour from a supply chain that they have not checked.
- 6.19. Alternatively, the checks could be optional, but clients who have not performed them and are later found to have used a non-compliant labour supply chain could be named publicly, meaning that those using unsecured labour supply chains would be running a reputational risk.
- 6.20. This would encourage clients to take more care when offering their engagement terms. The public sector reform has encouraged public authorities to take steps towards securing their labour supply chains. This is demonstrated by public authorities advertising new roles with a clear indication of whether they consider the worker would be regarded as an employee for income tax and NICs purposes if engaged directly.
- 6.21. However, this option would place a relatively large administrative burden on businesses without directly tackling the issue of non-compliance in the private sector.

Q14. Overall, what are your views on this option? Would it be a proportionate response to the issue?

Q15. If the government were to pursue this option, what checks should the client be required to perform?

Q16. How should different views on employment status be dealt with? For example in the public sector, disputes should be resolved between the client and the worker, which ultimately allows either party to walk away if they do not agree.

Q17. How would HMRC best enforce compliance with securing labour supply chains, keeping in mind the need to mitigate or reduce dealing with each PSC individually?

Q18. Should the requirement be underpinned by some form of penalty?

Q19. Should the requirement be underpinned by denying the client a deduction for the cost of labour from an unchecked supply chain?

Q20. Should the requirement be underpinned by the risk that the client could be named as having used a non-compliant supply chain?

Q21. Would such penalties effectively change behaviour within labour supply chains, helping to ensure the correct income tax and NICs are paid?

Q22. What would the impact (including the effect on administrative burdens) of this option be on affected businesses, agencies, and individuals?

- Q23. How effective would this option be in addressing non-compliance with the off-payroll working rules in the private sector?
- Q24. Is there any way to improve this option which would make it more effective?

Additional record keeping

- 6.22. The government aims to simplify the tax system and understands the importance of minimising administrative costs for businesses. A time consuming aspect of the current compliance process is the need for HMRC to gather a range of information from the various parties in the labour supply chain, often several months or sometimes years after the work has been performed and payment has been made. This issue could be addressed by requiring clients to gather and retain information for off-payroll engagements.
- 6.23. One option would be to require clients that make payments (directly or through an agency) to PSCs to retain certain information such as contracts, shift rotas, and line management reporting requirements relating to the engagement. This would allow HMRC to quickly gather such information directly from the client should they later open an enquiry into one or more PSCs.
- 6.24. If accurate information is gathered by the client then this could potentially speed up the compliance process and help HMRC to progress cases more quickly.
- 6.25. However, there are some clear and significant downsides with this option. It would clearly represent an additional administrative burden for all parties in the labour supply chain, and particularly for the client, without directly tackling non-compliance. It could also raise questions as to what would happen if the other parties in the labour supply chain refuse to provide the client with the required information, or provide false information.
- 6.26. We would also need to consider what penalties would be needed, in the event there is a failure to gather, retain, or report the information. Both this and the previous option keep the decision on employment status in the hands of the PSC, leaving open the opportunities for non-compliance.

- Q25. Overall, what are your views on this option? Would it be a proportionate response to the issue?
- Q26. If the government were to pursue this option, what information should be required to be gathered?
- Q27. How could the government ensure that others in the labour supply chain pass accurate and timely information to the client?
- Q28. What penalties should fall on the client or others in the labour supply chain if they fail to comply with the requirement?
- Q29. What would the impact (including the effect on administrative burdens) of this option be on affected businesses, agencies, and workers?
- Q30. How effective would this option be in addressing non-compliance with the off-payroll working rules in the private sector?
- Q31. Is there any way to improve this option which would make it more effective?

Other options to consider

6.27. There may be other options to tackle non-compliance in the private sector that we have not considered as part of this consultation, or in previous consultations on reforming the off-payroll working rules. We would welcome suggestions on the best options to address this problem and better protect the Exchequer, whilst ensuring fairness between taxpayers. We welcome any research and / or evidence to support any suggestions where available.

Q32. Are there other options, within the scope of this consultation as set out in Chapter 2, that would be effective ways of tackling non-compliance in the private sector that the government should consider (for example, possibly drawing on lessons from other countries)?

Q33. Would these, or any of the other options outlined above, be more effective than extending the public sector reform? If so, how would they be more effective and on what grounds would they be preferable to extending the public sector reform?

Other issues

6.28. This consultation has considered a wide range of issues as we seek views on how best to tackle non-compliance with the off-payroll working rules in the private sector.

Q34. Are there any other issues which businesses or individuals who may be affected would like to raise?

Options considered but out of scope of this consultation

6.29. In response to previous consultations on the off-payroll working rules a wide range of alternative suggestions for reform were put forward. For completeness, we have summarised these options below. These options are out of scope of this consultation as they are either designed to change the tests that determine whether the off-payroll working rules apply, or to change the tax or NICs treatment of those who are found to be inside, or outside of the rules.

Minimum length of engagement

6.30. The idea put forward was that workers in contracts for short periods, say less than one month, would not need to consider the off-payroll working rules for that contract.

6.31. This is out of scope as it would move away from the principle that the rules should apply to all workers who work in a similar way to employees, as it is entirely possible for someone to be engaged for a short period of time under a contract of employment.

Freelancer Limited Company

- 6.32. The suggestion was to create a new corporate structure that offers simplified tax treatment, limited liability, a restriction on the frequency of dividend payments, and a requirement for the worker to be paid a minimum salary.
- 6.33. This is out of scope as it would effectively create a new tax regime, rather than improving compliance with the current rules.

The client pays employer NICs

- 6.34. This proposal was that the off-payroll working rules could be replaced entirely with a requirement on the client to make a decision on whether a given test or set of criteria, applies to the worker. If the test applies then the client would then be liable to account for employer NICs on the fee they pay to the PSC and pay that over to HMRC. However, the PSC would not be subject to PAYE or employee NICs, and so would still enjoy a tax advantage, even if they worked in the same way as an employee.
- 6.35. This is also out of scope as it would fundamentally change the NICs treatment of those who would otherwise be within the off-payroll working rules.

Flat-rate withholding tax

- 6.36. Another proposal was to introduce a flat-rate withholding tax, similar to the Construction Industry Scheme,²² for off-payroll engagements. The income tax and NICs withheld would be set against the PSC's final liability in the event that the off-payroll working rules are later found to apply or otherwise would be refunded.
- 6.37. This option is out of scope because it would require a different kind of test or certification from HMRC to determine which individuals could be paid gross and which would be subject to withholding that would result in the incorrect amount of tax being withheld.

²² <https://www.gov.uk/government/publications/construction-industry-scheme-cis-340/construction-industry-scheme-a-guide-for-contractors-and-subcontractors-cis-340>

7. Summary of Consultation Questions

Chapter 5 – The compliance challenge

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| <p>Q1. What could be done to improve the compliance enquiry process to reduce non-compliance, whilst safeguarding the rights of customers?</p> |
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Chapter 6- Options for how to tackle non-compliance

Extending the public sector rules to the private sector

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| <p>Q2. Could the public sector regime better fit the needs of businesses? How?</p> <p>Q3. What if any, changes could help make the administration as simple as possible?</p> <p>Q4. If the private sector rules were changed, do you have any evidence that there are parts of the private sector where the administration of any regime may need to vary even though the basic principles including for determining status, remain the same?</p> <p>Q5. Is there any evidence that parts of the private sector will not have, or be able to acquire the administrative capacity, knowledge and resources to enable them to implement any changes in relation to off-payroll workers?</p> <p>Q6. How could these difficulties be mitigated?</p> <p>Q7. What aspects of policy design might be adjusted if similar changes were brought in for the private sector? Should we bring in a specific penalty if agencies fail to comply?</p> <p>Q8. What action should be taken in the case where the fee-payer hasn't acted upon the client's conclusion that the worker would have been regarded as an employee for income tax and NICs purposes if engaged directly? Should an obligation be placed upon the fee-payer to adopt the client's conclusion and there be sanctions for failing to do so?</p> <p>Q9. What action should be taken if the worker or PSC is knowingly receiving income that has not had the right amount of tax and NICs deducted?</p> <p>Q10. What systems and process changes would businesses need to make?</p> <p>Q11. Would there be any process and administrative cost implications for businesses? Can you provide evidence of the scale and nature of these?</p> <p>Q12. Can you provide any evidence that these costs would vary depending on how much notice businesses were provided for the introduction of any reform?</p> <p>Q13. Is there anything else HMRC could do to ease the implementation for businesses, and can you provide evidence of how this would ease implementation or administration for businesses?</p> |
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Encouraging or requiring businesses to secure their labour supply chains

- Q14. Overall, what are your views on this option? Would it be a proportionate response to the issue?
- Q15. If the government were to pursue this option, what checks should the client be required to perform?
- Q16. How should different views on employment status be dealt with? For example in the public sector, disputes should be resolved between the client and the worker, which ultimately allows either party to walk away if they do not agree.
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- Q18. Should the requirement be underpinned by some form of penalty?
- Q19. Should the requirement be underpinned by denying the client a deduction for the cost of labour from an unchecked supply chain?
- Q20. Should the requirement be underpinned by the risk that the client could be named as having used a non-compliant supply chain?
- Q21. Would such penalties effectively change behaviour within labour supply chains, helping to ensure the correct income tax and NICs are paid?
- Q22. What would the impact (including the effect on administrative burdens) of this option be on affected businesses, agencies, and individuals?
- Q23. How effective would this option be in addressing non-compliance with the off-payroll working rules in the private sector?
- Q24. Is there any way to improve this option which would make it more effective?

Additional record keeping

- Q25. Overall, what are your views on this option? Would it be a proportionate response to the issue?
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Other options to consider

Q32. Are there other options, within the scope of this consultation as set out in Chapter 2, that would be effective ways of tackling non-compliance in the private sector that the government should consider (for example, possibly drawing on lessons from other countries)?

Q33. Would these, or any of the other options outlined above, be more effective than extending the public sector reform? If so, how would they be more effective and on what grounds would they be preferable to extending the public sector reform?

Other issues

Q34. Are there any other issues which businesses or individuals who may be affected would like to raise?

8. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives, before consulting later on a specific proposal for reform.

How to respond

A summary of the questions in this consultation is included at Chapter 7.

Responses should be sent by 10 August 2018 by e-mail to offpayrollworking.intheprivatesectorconsultation@hmrc.gsi.gov.uk or by post to: IPD Employment Status and Intermediaries Policy, Room 3/46, 100 Parliament Street, London SW1A 2BQ.

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC's GOV.UK pages](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public

authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website:
<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.