



HM Treasury

Review of changes to the off- payroll working rules: report and conclusions

February 2020

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Executive summary

The labour market has been performing strongly, but the way that people work is changing. There has been a significant increase in self-employment and even faster growth in the number of owner-managers¹. Allowing individuals and businesses to agree working arrangements to suit their needs is an important pillar of the labour market's success and the Government is committed to retaining that flexibility. The Government values the contribution of flexible workers to the UK economy, but it is fair that individuals who work in a similar way should pay broadly the same amount of tax.

The off-payroll working rules, known as IR35, were introduced in 2000 to ensure that someone working like an employee, but through a company, pays similar levels of tax to other employees. The rules only apply to individuals who are working like employees under the current employment status tests, and do not apply to the self-employed.

Unfortunately, non-compliance with the off-payroll working rules is widespread and is forecast to cost the Exchequer over £1.3 billion a year by 2023-24 if not addressed. This is not sustainable. It denies the taxpayer significant revenue for essential public services and perpetuates an unfairness between two individuals working in the same way, but paying different levels of tax.

Over the past 10 years, various steps have been taken to improve the effectiveness of these rules, with limited success. To address this, in April 2017 the Government reformed the way in which the rules operate in the public sector. The reform shifted the responsibility for determining employment status from an individual contractor to the organisation engaging them – who are better placed to make that assessment. The reform was introduced to increase compliance with the existing rules; it does not introduce a new tax liability. The April 2020 reform extends this change to medium and large organisations in the private and third sectors.

The Government recognises that shifting responsibility for determining employment status is a major change for employers and other organisations that use contractors and contingent labour. Learning from the implementation of the reform in the public sector, the Government has taken steps to help organisations and contractors to prepare:

- HMRC published guidance in April² and August 2019³ on how businesses and intermediaries can prepare for the change

¹ [Institute for Fiscal Studies, Green Budget 2017](#)

² [Prepare for changes to the off-payroll working rules \(IR35\)](#)

³ [Understanding off-payroll working \(IR35\)](#)

- In November 2019 HMRC launched the enhanced Check Employment Status for Tax (CEST) service to address stakeholders' concerns. Improvements have been made to language and presentation, and guidance has been added to ensure questions are clearly understood. Since November CEST has been used over 230,000 times by over 160,000 users
- HMRC also published a factsheet for contractors in January 2020⁴, setting out suggested steps to take ahead of April 2020
- HMRC are also undertaking a comprehensive programme of customer education and support including one-to-one support for the largest businesses, direct letters to over 40,000 medium sized businesses, and webinars and workshops

In January 2020, the Government announced a review of the implementation of the April 2020 changes, to address concerns from affected businesses and individuals⁵. The announcement made clear that the rules were due to come into force on 6 April 2020, and that HMRC would continue their comprehensive programme of education and support activities in parallel to the review.

The Government is grateful for the contributions to the review. While there remains some opposition to this change, the Government believes it is right to address the fundamental unfairness of the non-compliance with the existing rules. The reform will therefore go ahead on 6 April 2020.

The Government has listened to stakeholders throughout the review process, and is making a number of changes to address concerns and support the smooth and successful implementation of the reform:

- Customers will not have to pay penalties for errors relating to off-payroll in the first year, except in cases of deliberate non-compliance
- HMRC are confirming their previous commitment that information resulting from changes to the rules will not be used to open new investigations into Personal Service Companies for tax years prior to 6 April 2020, unless there is reason to suspect fraud or criminal behaviour⁶
- In response to feedback from the roundtables that an immediate change would be beneficial, the Government has already announced that the rules will only apply to services carried out from 6 April 2020 onwards⁷
- The Government will place a legal obligation on clients to respond to a request for information about their size from the agency or worker, and update the legislation to address concerns raised over the rules as they apply to off-shore companies

⁴ [Factsheet for contractors](#)

⁵ [Off-payroll review launched](#)

⁶ [HMRC issue briefing: reform of off-payroll working rules](#)

⁷ [HMRC announces change to the off-payroll working rules](#)

- HMRC have already published detailed guidance on the reform⁸ and clarified the position on a range of concerns raised, for example the client-led status disagreement process, including by making explicit the time limits within which a disagreement can be raised. The Employment Status Manual guidance has been further updated in line with other outcomes from this review
- HMRC have already published a factsheet to support contractors prepare for the changes, and are continuing to step up their communications in the run up to implementation. HMRC are launching further products to support contractors in understanding the changes, including a self-help guide on how to spot tax avoidance schemes⁹

The Government will continue to listen to stakeholders, and monitor and evaluate the operation of the rules. HMRC will commission external research into the impacts of the reform six months after implementation, including on how status assessments are being made.

⁸ [Employment Status Manual](#)

⁹ [Tax avoidance schemes aimed at contractors and agency workers](#)

Chapter 1

Context and history of the off-payroll working rules

- 1.1 Prior to 2000 there was a growing trend for individuals to provide their services through their own limited, personal service company (PSC) rather than working as their client's employee, both for legitimate commercial reasons (such as to limit their liability) and to receive a tax advantage. This led to a situation where two individuals working in the same way would pay different levels of tax if one of them worked through a company. The off-payroll working rules were introduced in 2000 to address this unfairness. The rules require an individual to determine whether they would be employed or self-employed for tax purposes, if they were working directly for their client, without an intermediary company in the contractual chain.
- 1.2 It is widely accepted that the rules introduced in 2000 have not been fully effective. Many have called for them to be scrapped but successive governments have been clear that these rules are essential to protect the tax-base. The cost of non-compliance to the Exchequer associated with the off-payroll working rules is estimated to reach £1.3 billion a year by 2023-24, depriving public services of vital funds.
- 1.3 To improve the effectiveness of these rules, a number of changes have been brought forward over the last 10 years.
- 1.4 At Budget 2011, the Government made a number of changes to the administration of the off-payroll working rules to improve compliance. These included creating specialist compliance teams within HMRC, setting up a dedicated helpline, publishing guidance on the types of cases HMRC view to be outside the rules, and setting up an "IR35 Forum" to monitor HMRC's approach. Compliance rates did not improve as a result of these administrative changes.
- 1.5 At Budget 2015 the Government committed again to look carefully at how the rules could be improved and published a discussion document which set out the challenges with the current legislation and proposals for reform.
- 1.6 Following further consultation, in April 2017, the rules were reformed in the public sector so that responsibility for deciding whether the rules should apply and deducting the associated employment taxes and National Insurance contributions shifted from the individual's PSC to the public sector body or agency they engage with. The reform was introduced to increase compliance with the existing rules; it did not introduce a new tax liability.
- 1.7 Evidence suggests that compliance in the public sector has improved since the reform was introduced in 2017. The reform is estimated to have

increased overall Exchequer revenues by £250 million in the first 12 months, achieving more than the level estimated at Spring Budget 2017.

- 1.8 In 2017, HMRC commissioned IFF Research and Frontier Economics to gather evidence on experiences of public sector bodies in implementing the reform. The research consisted of a quantitative survey of public bodies that had recently engaged with off-payroll contractors and follow up interviews with respondents who indicated they had been affected by the reform. The surveys took place from August to October 2017, focussing on public bodies' early experiences after the reform was introduced in April 2017. The research did not find significant change to the use of contractors, impact on recruitment, or impact on ability to hire flexible labour¹.
- 1.9 At Autumn Budget 2017, the Government announced plans to consult on how to tackle non-compliance with the off-payroll working rules in the private and third sectors. Following a twelve-week consultation in summer of 2018, and in response to feedback for more time, the Government announced that the reforms would not come into effect until April 2020 to give businesses time to prepare.
- 1.10 The Government also listened to consultation responses and announced that the reform would not apply to the smallest 1.5 million organisations, minimising their administrative costs. The Government then consulted on the detailed design of the reform in Spring 2019. As a result of the consultation and building on feedback from the public sector reforms, the Government introduced a statutory requirement for clients to introduce a status disagreement process and to issue a Status Determination Statement providing reasons for the determination. Changes have also been made to how liability transfers through the labour supply chain in the cases of non-compliance.
- 1.11 HMRC published draft legislation in July 2019 for consultation². The reform of off-payroll working rules in the public and third sectors will go ahead on 6 April 2020. The final legislation is due to be included in Finance Bill 2020. Throughout consultations and publication of draft primary and secondary legislation, the key founding principle of the client determining a contractor's employment status for tax has not changed.

¹ [Off-Payroll Reform in the Public Sector](#)

² [Draft legislation](#)

Chapter 2

Review process and findings

- 2.1 On 7 January 2020, the Government announced a review to test business readiness and identify any implementation issues that had not been addressed by the draft legislation or the published guidance.
- 2.2 The review process involved engaging with affected individuals and businesses through a series of stakeholder roundtables, as well as undertaking internal analysis to deepen the Government's understanding of the effects of the public sector reform, including an analysis of the impacts on tax receipts and compliance.
- 2.3 The Government received calls from some stakeholders to delay or halt the reform. However, the Government believes it is right to address the fundamental unfairness of the non-compliance with the existing rules. The purpose of this process was to identify any further steps the Government can take to ensure the smooth and successful implementation of the reform.

Stakeholder roundtables

- 2.4 Between the 13 and 23 of January HMRC, HM Treasury, and the Financial Secretary to the Treasury have held seven roundtables with 66 stakeholders affected by the reform, including medium and large businesses, agencies, tax professionals, contractor representatives and public sector bodies. The roundtable discussions focused on two broad themes – education and readiness, and April 2020 implementation issues.

Education and readiness

- 2.5 Stakeholders reported mixed levels of business readiness. The Government heard evidence that for large businesses preparations were underway for April 2020, but medium-sized businesses reported lower levels of readiness. Businesses and agencies raised concerns about low levels of awareness amongst contractors, and were finding it difficult to reach out to this population.
- 2.6 To allow businesses time to adjust, stakeholders called for HMRC to take a softer approach to compliance in the first year of the reform. Stakeholders reported that the market was unaware of HMRC's commitment not to use information from the implementation of the reform to open historical inquiries into individual personal service companies.

- 2.7 Businesses asked for sight of the detailed guidance on the reform in the Employment Status Manual to help them prepare for the reform, and noted that the delays to the publication due to the general election had made it more difficult for stakeholders to make the necessary preparations.
- 2.8 Businesses and agencies called for further guidance on operating the rules, for example, on how the rules apply to cross-border business and outsourced services.
- 2.9 They also asked for additional support for contractors, specifically around correcting misinformation and common misunderstandings, and what to do if the contractor disagrees with the client's determination.
- 2.10 Stakeholders throughout the labour supply chain were concerned about the promotion of non-compliant schemes to avoid the off-payroll working rules. Stakeholders requested that HMRC provide more support to contractors to raise awareness of the risks of using any such avoidance arrangements.

April 2020 implementation issues

- 2.11 A common issue raised over the course of the review has been businesses' concerns over when the rules will begin to apply to payments. Businesses were concerned that the existing legislation would catch contracts for services provided before April 2020, which are invoiced after the rules came into effect. Businesses reported that this was having an immediate impact on their decisions about contracts.
- 2.12 Agencies and representative bodies told the Government that it would be helpful for the contractual chain to know when the client organisation is small, and therefore whether agencies and representative bodies should expect to receive a status determination.
- 2.13 Contractor representatives reported concerns that clients are taking a blanket approach, categorising all engagements as employment, regardless of the facts. The Government has been clear that determinations need to be made on a case-by-case basis. During the review, many businesses and public sector organisations described processes they had put in place to ensure determinations were correct and based on the actual working practices of the individual.
- 2.14 The draft legislation states that the client must take 'reasonable care' when determining the worker's employment status, and will be liable for the tax due if they fail to do so. Businesses requested further guidance on the behaviours indicative of 'reasonable care'.
- 2.15 The Government is aware that some organisations are considering whether PSCs are the best way to engage contractors who are working like employees. Businesses reported that where individuals had been moved onto payroll, this was a result of a review of the structure of their workforce. However, the Government have not seen any evidence that this indicates an overall change in demand for the services and skills that contractors offer, but will continue to monitor impacts on the labour market. For contractors

who would prefer to continue to use a PSC, many organisations will still choose to engage contractors in this way, where this suits their business model. Independent research on the impacts of the reform in the public sector showed that it did not reduce market flexibility or impact use of contingent labour.

Public sector implementation experience

- 2.16 The Government acknowledges that there were lessons to be learned from the implementation of the public sector reform. Some of these have already been reflected in the approach to April 2020 reforms, as set out at paragraph 1.9 and 1.10. However, as part of the review, the Government held roundtables with organisations impacted by the public sector reform to gather further feedback.
- 2.17 Public sector bodies reflected that there were teething issues with the initial implementation of the reform, concerning the amount of time available to prepare, the usability of the CEST tool, and the quality of the guidance provided. Overall, however, public sector bodies reported that the contractor 'flight risk' that some had feared did not materialise following the 2017 reform; though they noted that ongoing disparity in the way that the off-payroll working rules operate in the public and private sector could lead to a loss of skills in the future. Public sector bodies reported that they continued to engage people with specialist skills and had adapted their business models to comply with the reform. In addition, some public sector bodies reported improved management processes as a result of revisiting contractual arrangements.

Internal analysis of public sector reform

- 2.18 As part of the review, the Government also undertook internal analysis of the impact of the reform to off-payroll working rules on the public sector.
- 2.19 Analysis of the tax receipts following the public sector reform confirmed the Government's view that compliance with the rules is improving.
- 2.20 The reform is estimated to have increased overall Exchequer revenues by £250 million in the first 12 months, achieving more than the level estimated at Spring Budget 2017.

Check Employment Status for Tax (CEST) Tool

- 2.21 Employment status – the rules that govern who is employed and who is self-employed for tax - is straightforward for the vast majority of people. Employment status it is not a matter of choice for an individual, but depends on the facts and the actual working practices of an engagement.
- 2.22 CEST is an online tool developed by HMRC in conjunction with tax specialists, contractors, and other stakeholders, and is available to public sector organisations and businesses to support them to apply the off-payroll

working rules correctly. It was tested rigorously against known case law and settled cases, and HMRC stand by its results if it is used in accordance with its guidance. Where clients confirm they agree with the output provided by CEST, the output can be used as a status determination statement.

- 2.23 HMRC launched an enhanced CEST service in November 2019 in response to stakeholders' concerns. Improvements have been made to language and presentation, and guidance has been added to ensure questions are clearly understood.
- 2.24 In addition to CEST, HMRC have provided comprehensive guidance and a specialist hotline to support organisations in making employment status determinations. HMRC are seeking to improve awareness of the available guidance by ensuring it is signposted to businesses, public bodies and charities.
- 2.25 HMRC have carried out an internal post-implementation review of the enhancements made to CEST. The review assessed the usability of the tool and considered changes to the related guidance products to further support the user experience. Since the enhanced CEST service was launched in November, CEST has been used over 230,000 times, and user feedback has been largely positive.
- 2.26 At the roundtables, stakeholders welcomed the improvements to CEST. There remain some concerns over whether using CEST would be sufficient to demonstrate 'reasonable care' and also about HMRC's understanding of mutuality of obligation.

Chapter 3

Education and support provided to date

- 3.1 The Government recognises that shifting responsibility for determining employment status is a major change for employers and other organisations that use contractors and contingent labour.
- 3.2 The Government also recognises concerns from contractors that those who are self-employed might be caught by the rules. Stakeholders noted that employment status case law is not well understood and that many contractors think of themselves as self-employed because they operate through their own company. As outlined in paragraph 2.21, employment status depends on the facts and working practices of an engagement, not its legal structure. It also does not necessarily depend on, for example, the length of the engagement, specialist skills of an individual or whether the individual can work flexibly.
- 3.3 To remedy this, the Government developed the CEST tool and introduced a client-led status disagreement process to help organisations and individuals reach the correct status determination.
- 3.4 Further to this, and learning from the experience in the public sector, HMRC have been working hard to provide extensive support, education and guidance to help organisations implement the off-payroll working rules to ensure they apply them correctly. Since the public sector reform in April 2017:
- HM Treasury published a factsheet at Budget 2018 explaining the reform, addressing key concerns, and setting out next steps. This was updated to reflect the draft legislation published in July 2019¹
 - HMRC published guidance in April and August 2019 on how businesses and intermediaries can prepare for the change
 - In November 2019 HMRC launched the enhanced Check Employment Status for Tax (CEST) service to address stakeholders' concerns. Improvements have been made to language and presentation, and guidance has been added to ensure questions are clearly understood. Since November CEST has been used over 230,000 times by over 160,000 users

¹ [Off-payroll working rules from April 2020: Factsheet](#)

- HMRC have established a dedicated director-led team including resource specifically focussed on education and support to help customers prepare for the reform

In parallel to the review, HMRC are undertaking the following activity:

- Offering one-to-one support to more than 2,000 of the UK's biggest employers, and writing directly to 43,000 medium sized businesses and other organisations
- Providing large and medium sized businesses, public bodies, and charities with factsheets to share with their contractors, and publishing the factsheet on Gov.uk
- Holding 18 workshops with small tax agents, recruitment agencies, charities, and public bodies
- Holding 14 webinars, with small tax agents, recruitment agencies, charities, public bodies, and contractors

Chapter 4

Further commitments following the outcome of the review

4.1 The Government values the significant contribution of flexible workers to the UK economy, but it is fair that individuals who work in a similar way should pay broadly the same amount of tax. Non-compliance with the existing rules is unsustainable, and the reform will therefore go ahead on 6 April 2020. However, the Government has identified a number of recommendations based on the findings of the review process. These are set out below.

HMRC's compliance approach

- 4.2 As set out in Chapter 3, HMRC are delivering a comprehensive programme of education and support to help customers prepare for the off-payroll working reforms. HMRC are committed to continuing to take a supportive approach to help customers apply the new rules.
- 4.3 HMRC have already committed to not using information resulting from the changes to the rules to open a new compliance check into Personal Service Companies for tax years prior to 6 April 2020, unless there is reason to suspect fraud or criminal behaviour. This should provide reassurance to individuals that any change in status as a result of the reform will not lead to HMRC opening a historic enquiry. The commitment is also reflected in the recently updated Employment Status Manual published on 7 February 2020.
- 4.4 HMRC will ensure that customers trying to comply with the off-payroll working rules are not disadvantaged by those who are not. HMRC will focus on and address the most significant risks around non-compliance. HMRC will always follow up on suspected non-compliance if there is a sign of potential criminal activity.
- 4.5 HMRC will raise awareness of the risks of using avoidance schemes and arrangements with individuals, end-clients, employment agencies and intermediaries. A self-help guide has been published for contractors and agency workers on how to avoid entering into non-compliant arrangements.
- 4.6 To deliver this supportive approach in 2020-21 specifically, HMRC will:
- Take a light touch approach to penalties. Customers will not have to pay penalties for inaccuracies relating to the off-payroll working rules in the first 12 months unless there is evidence of deliberate non-compliance
 - Continue to operate a dedicated project team to deliver education on the off-payroll working rules and support customers applying them through:

- one-to-one education discussions with the largest businesses and agencies
- webinars designed to provide all affected businesses with further support
- working with specific sectors to identify any particular areas of difficulty and then further target and focus support
- checking that the education and support is effective: ensuring that the off-payroll working rules are understood and that customers are taking necessary steps to implement them. Where errors are identified HMRC will help customers to correct them, to pay the tax and National Insurance Contributions that are due and to ensure status determinations are correct going forwards

Changes to rules on payments

- 4.7 A common issue raised over the course of the review has been businesses' concerns over when the rules will begin to apply to payments. Businesses were concerned that the existing legislation would catch contracts for services provided before April 2020 but invoiced after the rules came into effect. Businesses reported that this was having an immediate impact on their decisions about contracts.
- 4.8 The Government has listened and taken action early to give businesses certainty, announcing on 7 February 2020 that the rules will now apply only to payments made for services provided on or after 6 April 2020.

Information requirements

- 4.9 Stakeholders, particularly agencies, told the Government that it would provide clarity for the contractual chain to know when the client organisation is small, and therefore whether they should expect to receive a status determination statement.
- 4.10 The Government will bring forward legislation in Finance Bill 2020 to place a legal obligation on clients to respond to a request for information about their size from an agency or a worker. HMRC will also update the guidance to support clients to understand their obligation.

Improved communications

- 4.11 Stakeholders reported mixed levels of readiness particularly amongst contractors. HMRC are publishing products aimed at supporting contractors in understanding the changes, including a flowchart for contractors to understand whether they are affected by the change to the rules, as well as case studies and top tips. HMRC will also develop a bespoke webinar for contractors which will be delivered ahead of implementation, and have improved guidance products for contractors.

- 4.12 HMRC will take a sectoral approach to communications to ensure they target the industries that are most likely to be affected.
- 4.13 In order to address high levels of misinformation in the market, HMRC have developed communications to raise contractors' awareness of the risks of using avoidance arrangements. As set out in para 4.5, HMRC have published a self-help guide on how to spot tax avoidance schemes.

Further guidance and clarity

- 4.14 Stakeholders called for further support for contractors who disagree with their client's status determination. Within the published guidance, HMRC have clarified the client-led status disagreement process, including by making explicit the time limits within which a disagreement can be raised, and communicating how the process works to contractors. Where, after completing the client's status disagreement process, a contractor still disagrees with the client's determination and they consider they have been taxed incorrectly as a result, the existing Self-Assessment and National Insurance processes can be followed. HMRC will clearly signpost to these processes in the guidance.
- 4.15 During the review concerns were raised about how the rules will apply where the client is overseas. The Government has listened to those concerns and will amend the legislation to exclude wholly overseas organisations with no UK presence from having to consider the off-payroll working rules. This means the existing rules for engagements outside the public sector will continue to apply to engagements where the client is wholly overseas, and the individual's limited company will continue to determine the status of the individual.
- 4.16 Stakeholders also called for further guidance from HMRC on operating a number of elements of the reform. The Government has listened and taken action early to give businesses certainty. HMRC updated the Employment Status Manual on 7 February 2020. This covers a number of areas businesses wanted more details on, including 'reasonable care' and transfer of liability provisions, recovery from other persons' provisions and outsourced services. It also includes multiple case studies and examples to provide further clarity.

Chapter 5

Conclusion

- 5.1 The Government continues to believe that it is right to extend the reform to the off-payroll working rules to large and medium-sized organisations in all sectors from 6 April 2020. The Government has listened to the concerns raised by stakeholders, and is changing its approach where appropriate to better support affected businesses and individuals.
- 5.2 HMRC have updated the Employment Status Manual to reflect the further changes announced in this review.
- 5.3 The Government will continue to listen to stakeholders, and monitor and evaluate the operation of the rules. HMRC will commission external research into the impacts of the reform six months after implementation, including on how status determinations are being made.

Annex A

Off-payroll working rules reform - Summary of roundtable discussions

What you have said	What we have done
To allow businesses time to adjust, stakeholders called for HMRC to take a softer approach to compliance in the first year of the reform.	<p>HMRC have published a statement of intent setting out more detail on their compliance approach. This approach will not penalise businesses trying to get it right.</p> <p>Customers will not have to pay penalties for inaccuracies relating to the off-payroll working rules in the first 12 months unless there is evidence of deliberate non-compliance.</p> <p>As part of their communications campaign, HMRC are publishing further guidance on how to spot tax avoidance schemes and the consequences of using them.</p>
Stakeholders were concerned that not all contractors were aware of HMRC's commitment not to use information from the implementation of the reform to open historical enquiries.	<p>HMRC have reiterated this commitment and made clear that the information will not be used to open historical enquiries.</p> <p>HMRC are promoting this statement as part of plans for targeted communications for contractors.</p>
A common issue raised was the application of the rules to payments made for services provided before 6 April 2020. This was causing practical issues for clients and agencies.	HMRC responded early to this issue by announcing a change to the policy to apply the rules only to payments made for services provided on or after 6 April 2020.
Agencies and representative bodies explained they were concerned about determining the size of a client organisation, and therefore whether the rules apply.	The Government are legislating to place a legal obligation on clients to respond to a request for information about their size from an agency or worker.
Stakeholders asked HMRC to promote their advice on the off-payroll working rules and employment status.	HMRC are improving the signposting to their guidance, as well as explaining the changes through webinars, letters, workshops and other material.

Concerns were raised about misinformation in the market.	HMRC are also running a targeted communications campaign to further raise awareness of the rules and address misinformation.
More clarity was asked for on how to use the client-led status disagreement process.	<p>The legislation will be made clearer regarding the time limits for bringing a disagreement.</p> <p>HMRC have updated their guidance to make the appropriate use of this process clearer.</p>
Stakeholders called for further guidance from HMRC on operating a number of elements of the reform.	<p>HMRC will amend the legislation to exclude wholly overseas organisations with no UK presence from having to consider the off-payroll working rules.</p> <p>HMRC updated the Employment Status Manual with details on a number of areas, including: reasonable care, outsourced services, and multiple case studies and examples to provide further clarity.</p>

HM Treasury contacts

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If you require this information in an alternative
format or have general enquiries about
HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk

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