



# Off-payroll working rules (IR35) Flowchart for client organisations

Is my organisation affected by the off-payroll working rules (IR35)?

**Q1: Are you, as the client organisation, in receipt of services from contractors through their own limited company or other intermediary (this could be a partnership or another individual)?**

Yes

No

You are not affected by the rules – **take no further action**

**Q2: Do you, as the client organisation, have a UK connection? (That is are you a UK resident or do you have a permanent establishment in the UK?)**

Information on what counts as a UK connection can be found at <https://www.gov.uk/hmrc-internal-manuals/international-manual/intm120000>

Yes

No

You are not affected by the rules – **take no further action**

**Q3: Are you a public sector organisation (public authority) for the purposes of off-payroll working rules?**

See guidance at <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10005>

No

Yes

Go to Q4

**You will need to consider the off-payroll working rules for these engagements. The off-payroll working rules for public authorities first came into effect in April 2017. For more information go to <https://www.gov.uk/guidance/off-payroll-working-in-the-public-sector-personal-service-companies>. The April 2021 changes introduced new responsibilities from 6 April 2021 including:**

1. Where the rules apply you must provide a Status Determination Statement (SDS) to the contractor informing them of their employment status for tax purposes, and also pass the SDS to the agency you engage with.
2. You must put in place a disagreement process for contractors and agencies to follow if they disagree with your decision.

#### Q4: Are you a medium or large-sized, non-public sector organisation?

Check the **criteria** for what is meant by a medium or large-sized organisation at <https://www.gov.uk/guidance/april-2020-changes-to-off-payroll-working-for-clients>. Find out more information on groups and off-shore entities at <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10007>

Yes

No

You are **not** affected by the rules. The contractor's intermediary is responsible for applying the rules. You may be asked to confirm that you are not a medium or large non-public sector organisation. For more information go to <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10011a>

#### You will need to consider the off-payroll working rules for these engagements.

The off-payroll working rules changed from 6 April 2021. As the client, you will be responsible for determining your contractor's employment status for tax purposes.

#### You must determine your contractor's employment status for tax purposes and provide them with a Status Determination Statement (SDS).

You must take **reasonable care** in reaching your determination, which should be based on the contract and working arrangements. For more information go to <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10014>. You can use HMRC's **Check Employment Status for Tax (CEST)** tool to help you determine what the contractor's employment status for tax purposes is. For more information go to <https://www.gov.uk/guidance/check-employment-status-for-tax>. Where the rules apply, you must provide the contractor with a Status Determination Statement setting out your decision and the reason behind it. You also need to give this to the agency you engage with.

#### Engagement is inside the off-payroll working rules (IR35)

The contractor will be treated as employed for tax purposes for that engagement

The party paying the contractor's limited company (the fee-payer) **will** usually deduct Income tax and employee National Insurance Contributions (NICs) before the contractor is paid for their services. The party paying the contractor's limited company will also be responsible for paying employer NICs and Apprenticeship Levy. They will also need to tick the off-payroll worker indicator in RTI.

If you do not engage the contractor through an agency, you will be responsible for these actions. You will not be responsible for employment rights.

#### Engagement is outside the off-payroll working rules (IR35)

The contractor will be treated as self-employed for tax purposes for that engagement

The party paying the contractor's limited company or other intermediary (the fee-payer) **will not** deduct Income tax and employee National Insurance Contributions (NICs) before the contractor is paid for their services. They will also **not** be responsible for paying employer NICs or Apprenticeship Levy.

If the contractor disagrees with the status determination you have provided, they can dispute the decision with you. You must put a **process** in place to facilitate this disagreement. For more information go to <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10015>

You should keep records of determinations and the reasons for them.