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Reporting Requirements for Employment Intermediaries

Qualitative research for HMRC

Lucy Joyce, Ralph Halliday,
Rory Donaldson and Krishna Chhatralia

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Glossary

Agent	A third party who has been authorised by a company to deal with their tax and financial affairs; often this is an accountant or a bookkeeper.
Employment intermediaries	A company or business that supplies the services of workers to clients.
End-client/engager	A business holding a contract with an employment intermediary, engaging workers on a temporary basis, often for specific tasks.
False self-employment	The situation where a worker is engaged as self-employed in order for the engager, and in some cases the worker, to evade paying the proper amount of Income tax and National Insurance Contributions.
Government Gateway	Website used to access online government services, including the employment intermediaries reporting requirement.
Late filers	Employment intermediaries who submitted their report after the end of the reporting period (5th May).
Non-filers	Employment intermediaries who did not file a report, or failed to file a report successfully.
On-time filers	Employment intermediaries who successfully submitted their report on time.
PAYE (Pay as You Earn)	A tax strategy applied to those who are engaged in work, typically as an employee. It ensures that both the worker/employee and the employer are paying the correct amount of tax.
Penalty regime	The fines and sanctions associated with the non-compliance of the reporting requirements.
PSC (Personal Service Company)	A limited liability company set up and used by a worker to engage with clients. By using a PSC, a worker and client can engage in work but not via PAYE.
Reporting period	The one-month period directly after the end of the financial quarter, during which employment intermediaries must submit their report.
RTI (Real Time Information)	The requirement for employers to submit PAYE information to HMRC each time employees are paid.
Second-tier employment intermediaries	Employment intermediaries who provide workers to other employment intermediaries engaged with end-clients.
Third party payroll agency	A company which has been engaged to attend to the payroll affairs of another.
Workers/contractors	Someone contracted by a company to carry out work, but not via a limited liability company or as an employee.
Umbrella company	A company that acts as an employer for contractors who work under a fixed term contract. Employment intermediaries offer contracts to the umbrella company as this reduces liability. Invoices are issued to the client and umbrella companies typically pay workers via PAYE.

Summary

Employment intermediaries place workers, with end clients, often through personal service companies, on temporary contracts. This model offers flexibility to workers and supports business growth and the UK economy. However, the growth of employment intermediaries and the increase in false self-employment means that income tax and National Insurance Contributions obligations are often not met. To help address this, a new requirement was introduced by the Government (in April 2015) requiring employment intermediaries to submit details of their non-PAYE workers to HMRC in quarterly reports. A penalty regime is attached to the new requirement for late, incomplete or incorrect reporting: penalties are tiered increasing from £250 for the first offence, to £1000 for third or later offences.

HMRC wished to understand how employment intermediaries responded to the new requirement and commissioned Ipsos MORI's Social Research institute to undertake a qualitative research study. The research explored: levels of awareness of the new requirement and penalties; barriers and drivers of behaviour; the impact of the penalty regime; and attitudes to the use of penalties overall. In total 60 in-depth interviews were conducted (face to face and telephone) with employment intermediaries who were eligible to submit a report during the first reporting period in April 2015, including a mix of on-time filers, late filers and non-filers.

Awareness and understanding of the reporting requirement and penalty regime

Awareness and understanding of the reporting requirement varied; on-time reporters expressed greater awareness and knowledge compared to non-filers who often lacked knowledge or were completely unaware of the requirement. Lack of awareness was identified as a key reason for non-reporting. Importantly, awareness was often determined by how 'plugged in' intermediaries were to potential sources of information, such as umbrella companies, industry associations, commercial software companies and communications from HMRC.

Knowledge of the penalty regime varied across intermediaries. Importantly, it was widely assumed there would be penalties attached to the reporting requirement – even where intermediaries were unaware of the specific details of the regime. Importantly, intermediaries noted being more focused on finding information and guidance to support the reporting process, rather than on the penalty regime attached to this.

Influences on decision-making, in relation to reporting

In order to comply with the requirement, intermediaries had to be aware of the requirement and recognise that their business was eligible to report. Where this was met, the overwhelming response was to comply with the requirement. A mixture of behavioural drivers underpinned this 'compliance mind-set', including habitual compliance with HMRC obligations and a sense of professionalism (both personally and at business level). Intermediaries also did not want to risk 'getting on the wrong side' of HMRC and there were no examples of deliberate non-compliance. There was evidence of intermediaries opting to convert their workers to PAYE to avoid the reporting requirement but this was only in isolated incidences.

When asked, intermediaries said the penalty regime for this requirement had not influenced their behaviour. However, penalties did form the backdrop against which the decision-making process played out and clearly underpinned the key drivers of behaviour identified. The threat of penalties motivated businesses to take the most risk-adverse course of action (i.e. report on time or accurately) and worked to 'tip the balance' where intermediaries were undecided.

Intermediaries were unclear about the reasons underpinning the introduction of the new requirement. While this did not affect decision-making in relation to reporting, it did have an impact on attitudes towards the requirement and in particular perceptions of fairness. It was widely felt the purpose of the requirement should be communicated more clearly.

Factors affecting reporting

A range of factors determined how straightforward, demanding or time-consuming it was for intermediaries to develop and submit the information report. These included:

- The number of contractors supplied by intermediaries and contractor responses to providing information;
- The internal resources and systems of intermediaries, in particular who was responsible for compiling and submitting the report (a dedicated member of staff or the business owner) and the processes in place to support reporting (manual or automated systems);
- The role of umbrella companies in supporting the requirement;
- The length of the supply chain and specifically ability to identify the end client; and
- Experiences of HMRC systems (Government Gateway) and guidance to support this.

It should be noted, that while these factors impacted on intermediaries' ability to report on time or correctly, it did not impact upon intermediaries decisions on whether to report or not. There was also clear evidence that the process was becoming easier over time as intermediaries adapted their systems and became more familiar with the requirement. As such there was evidence of intermediaries who had been non-filers or late filers (in earlier reporting quarters) reporting on time at subsequent quarters.

Suggestions for improvements

Suggestions for improvement focused on wider and clearer communication from HMRC along with increased accessibility to tailored advice and making the tools required for reporting more user-friendly. Specific suggestions included:

- Better communications, including a campaign to raise awareness and improved guidance and materials.
- Greater interaction with HMRC to discuss concerns or queries and for HMRC to send out reminder alerts.
- More user-friendly processes of submitting reports, including: an improved upload process which confirmed receipt and successful submission; greater flexibility in the formatting of the report document, producing fewer glitches and errors; and making the reports and the submission page easier to find on Gov.uk.

1 Introduction

This chapter of the report introduces the research study and provides an overview of approach. It includes details of the policy context, research objectives, and the research design adopted. A brief profile of intermediaries who took part in the study is also provided.

1.1 Policy context

Employment intermediaries place workers (self-employed individuals or personal service companies (PSCs) for example) with end clients on temporary contracts. This model offers flexibility and control to self-employed individuals and is essential to business growth and the UK economy. However, the growth of employment intermediaries and increase in false self-employment has led to a loss of employment tax and NICs being paid to HMRC.

In response to this, the Government introduced new legislation in 2014[1] to ensure the correct amount of tax and NI is paid. This legislation, introduced in April 2014, intended to establish where self-employment was being applied incorrectly, by monitoring the work of employment intermediaries via an employee status test, such as Supervision, Direction and Control. Where self-employment was unproven, self-employed individuals would be required to be treated as employees for PAYE and NI purposes.

The 2014 legislation included a new requirement[2], introduced in April 2015, which required employment intermediaries to submit electronic quarterly reports providing details of their non-PAYE workers and their engagements (full details of the reporting criteria can be found on page 12). By introducing this requirement, the Government aimed to reduce false self-employment; support intermediaries that comply with the requirement and penalise those that do not; and ensure the correct amount of tax and NI is being paid by contractors and businesses. Intermediaries can decide how frequently to upload reports and the deadline is set one month after the end of each reporting period. A penalty regime is attached to the new requirement for late, incomplete, or incorrect reporting: penalties are tiered increasing from £250 for the first offence, to £1000 for third or later offences. In some cases, additional (daily) penalties may be applied for those who consistently fail to meet requirements.

1.2 Aims and objectives

HMRC wished to understand how employment intermediaries responded to the new requirements for reporting information on their workers and to gain insight into levels of awareness and the impact of the penalty regime on behaviour. Specifically, HMRC wanted to understand the barriers and drivers of behaviour and how this affected the reporting outcomes of those who submitted a report on time, late, or not at all.

The research aimed to explore:

- Levels of awareness of the new requirement and penalty regime – including understanding of the regime and sources of information;

[1] Onshore Employment Intermediaries: False Self-Employment, further information can be found here: https://www.gov.uk/government/consultations/onshore-employment-intermediaries-false-self-employment

[2] The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015, further information can be found here: https://www.gov.uk/government/publications/employment-intermediaries-reporting-requirements

- Behaviour and decision-making in relation to meeting the requirement and the drivers and barriers behind intermediaries' ability to report;
- Impact of the penalty regime on behaviour and decision-making – including the impact of different aspects of the regime, such as the increase in penalties following the first failure;
- Attitudes towards penalties overall, considering how people respond to penalties in different scenarios and reasons for this.

1.3 Methodology

Ipsos MORI conducted 60 in-depth interviews with employment intermediaries who were eligible to submit a report during the first reporting period in April 2015. Of these interviews, 33 were face-to-face and 27 were via telephone. The research looked at the experiences of three groups of intermediaries: on-time filers, late filers, and non-filers.

Sample profile

	Reporter type	On-time	Late	Non
		20	20	20
Interview method	Face-to-face	17	9	7
	Telephone	3	11	13
Area	East	7	6	8
	North West	6	7	6
	South East	7	7	6
Size*	Small (1-49)	6	11	17
	Medium (50-249)	9	6	3
	Large (250+)	5	3	-

HMRC provided three samples corresponding to each reporter group. The on-time filer and the late filer samples were drawn from HMRC's employment intermediary records. No equivalent sampling frame exists for non-filers, therefore a sample of businesses listed as employment agencies in HMRC's VAT records was drawn as this would contain businesses eligible for the requirement. It was accepted that this sample would contain both genuine non-filers and those who were out of scope for the research. As such, all leads were screened using a questionnaire at the point of recruitment to determine they were eligible for the new requirement. Ipsos MORI used to two key criteria to establish whether the employment intermediary was eligible for interview: whether they held a contract with an engager and were not operating PAYE/NI on their workers. The non-filer sample fell into three groups – those who were eligible for the requirement, those who were not and those who had previously reported. All those who were eligible and happy to take part were included in the research[3].A qualitative approach was adopted to allow interviewers to build a rapport and encourage intermediaries to respond openly to questions about their reporting behaviour – this was especially important for the non-filer sample. Interviews were undertaken between 8th January and 5th February 2016 and were 45-60 minutes in length. The time at which the interviews were conducted coincided with the third report period, as such there were business who had submitted reports in multiple periods and so had greater experience of the process. Interviews were guided by a semi-structured topic guide supported by stimulus materials. The topic guide was designed to reflect the behavioural Theoretical Domains Framework (TDF)[4] ensuring the research considered a full range of behavioural determinants including: knowledge, skills, social influence, environmental context and resources, beliefs about capabilities, and beliefs about consequences. All research materials used in the study are provided in the appendices. Qualitative research is used to map the range and diversity of different type of experiences rather than indicate the prevalence of any one particular experience; as such, numerical language has not been used in this report.

At interview, it became apparent that among the non-filers there were intermediaries who had experience of filing in subsequent quarters. It was decided that this reporting behaviour should be noted, so that findings presented in the report give a better representation of how intermediaries had acted based on their reporting outcome, rather than the sample from which they were drawn. Quote attributions are also made on this basis, rather than being based on the original sample type[5].

Adjusted sample profile based on self-reported filing behaviour

Reporter type	On-time	Late	Non
	27	26	7

1.4 Sample profile

As outlined, the research explored the experiences of three types of filers: on-time filers, late filers and non-time filers. These groups exhibited a range of characteristics and details of these are presented in the section below in order to provide context to the research report.

On-time filers

This group was typified by large or medium-sized businesses, supplying large numbers of workers (>100) to end clients. On-time filers included intermediaries who provided workers to the following sectors: construction, healthcare, IT, logistics, hospitality, aviation, engineering, telecoms, sales, marketing, retail, administration, security, and engineering. Reports were usually submitted by a dedicated employee, such as head of finance, finance assistant, or the accounts/payroll manager. On-time filers tended to be more 'plugged in' to the industry, having more contacts and connections with others in industry bodies and with HMRC. This helped them to find out about the reporting requirement. Among this group, there

[3] Further details of how the sample was recruited can be found in Appendix A.

[4] Further information about Theoretical Domains Framework can be found in Appendix C.

[5] A full sample table adjusted for actual reporting behaviour can found in Appendix A.

were a range of different approaches used for compiling and submitting the required information, although there was a tendency for this to be an automated process.

Late filers

Late filers tended to be small and medium sized businesses (<249 staff), but there is also evidence of large businesses filing late as well. Late filers had provided workers across a range of sectors: education, IT, law, healthcare, social care, construction, design, finance, administration, and logistics. These businesses were supplying a range of workers to end clients, from as little as ten to 10,000. As with on-time filers, where businesses were larger the reporting was likely to be carried out by an employee in a designated role, such as an HR manager or head of compliance. In small and medium sized intermediaries, a company director or senior employee was more likely to undertake this task, and they tended not to have specialised staff available to complete the report for them.

Intermediaries in this group found out about the requirement in the same way as the on-time filers, although there were late filers who found out via more informal routes such as from umbrella companies or agents. Late filers had also found out about the requirement through third parties, such as their umbrella company or software provider. Companies had filed late because they were unaware of certain aspects of the requirement, or had problems getting hold of relevant information from third parties. In other cases, businesses had filed late because they encountered technical difficulties with the online submission. Elsewhere, there was evidence that reports were submitted late because the intermediary may have underestimated the amount of work involved.

Non-filers

This group was predominantly made up of small businesses (<50 staff), supplying small numbers of workers (no more than 50) to end clients. Non-filers included business in the sectors of construction, telecoms, finance, security, healthcare, and housing. In these businesses, the reporting requirement would be undertaken by the company director, managing director or finance director. Non-filers tended to have the smallest networks across the employment industry, which left them at risk of not finding out about this requirement.

The biggest driver of non-reporting was due to a lack of awareness; non-filers were compliant with other HMRC obligations, and stated they will be reporting for this requirement from now on. There was also limited evidence of intermediaries not reporting because they opted to convert their workers to PAYE.

Across all reporter groups employment intermediaries supplied workers to a range of industries, including: administration and office support; architecture; construction; healthcare, HGV driving; engineering; finance; IT; law; oil and gas; rail and aviation; and security.

2 Awareness of the new reporting requirement and the penalty regime

This chapter explores awareness of the new reporting requirement for employment intermediaries and the penalty regime attached to this. The report considers levels of awareness and understanding of the requirement; sources of information; and the impact of this on reporting behaviour. It also looks at awareness of the penalty regime, gaps in knowledge and questions raised by intermediaries in relation to this.

2.1 Awareness and understanding of the reporting requirement

Awareness of the reporting requirement varied across intermediaries; on-time filers tended to display better awareness of the requirement, whereas non-filers exhibited more limited awareness and in certain cases non-filers were completely unaware of the requirement.

"Well basically our new factoring company started telling us we needed [to submit reports] … about two months ago [November 2015] … I don't know what it is, I've never heard of it."

Non-filer, small, 1-49 workers on return

Late filers' level of awareness was more varied; from those who were fully aware of the requirement (but had failed to report on time due to technical issues), to late filers who had a partial or limited awareness and in some cases expressed confusion over certain aspects of the requirement. Amongst those who were aware of the requirement, understanding of what intermediaries needed to report on was good. Businesses were able to recall confidently the range of details they had to provide, including:

- Worker name;
- Worker date of birth;
- Worker national insurance number;
- Worker address;
- Worker engagement details (e.g. self-employed, limited liability company, third party operated PAYE);
- Worker unique taxpayer reference (UTR);
- Engagement start and end date;
- Earnings.

There was a very high level of awareness and understanding of the reporting schedule and deadlines for both on-time and late filers. Intermediaries confidently stated that the reporting periods were the same as financial quarters and the deadline dates for report submissions were one calendar month after the end of that reporting period. There were exceptions noted. For example, one intermediary had filed on time in the first quarter, as they had been instructed to do so by their umbrella company. However, they subsequently failed to report on time in later reporting periods, as they did not realise that the reporting was ongoing. This was because they incorrectly assumed that they only had to report once, rather than on a regular basis.

Gaps in knowledge were noted, with a number of intermediaries raising specific queries in relation to the requirement. The complexity of both workers' engagements and the supply chain tended to generate the most questions for intermediaries. Including:

- How to report on workers engaged with umbrella companies or third party payroll agencies and whether the responsibility fell to them or the umbrella company;
- How to submit the report for overseas workers (who had tax codes in a different format to UK workers, which caused confusion);
- Whether information needed to be provided on contractors' working dates or the dates they were paid;
- Which of the six categories (A-F[6]) on the report workers fell into; and
- Who was liable to submit reports for workers in a long supply chain (should this be the intermediary who was the primary engager with the worker, or the intermediary who was engaged with the end client).

Where intermediaries had questions about the requirement they would often consult the source of information where they found out about the requirement to begin with. There is also evidence of intermediaries turning to HMRC or trade bodies for answers.

2.2 Sources of information

Awareness of the reporting requirement was often determined by how 'plugged in' intermediaries were to other companies, organisations, agents, and industry bodies within the recruitment and employment sector. The size of the business tended to play a part in how connected it was to others, with larger intermediaries having more interactions, and therefore increasing the likelihood of finding out about the requirement. Smaller businesses that were less connected to others, and that relied on their agent to inform them about regulatory changes, were at higher risk of not finding out about the requirement at all. This was because from agent to agent awareness and understanding of the policy area varied; consequently, agents who were less aware of the requirement were unable to advise intermediaries of what they needed to do.

Intermediaries found out about the requirement from a range of different sources, including from HMRC, industry bodies, umbrella companies, software providers, and agents. Those who had heard about the requirement from HMRC mentioned reading about it in newsletters, emails and on HMRC's gov.uk webpages. Intermediaries had also heard about the requirement through an announcement in the Budget. Industry bodies such as the Recruitment and Employment Confederation (REC) and the Association of Professional Staffing Companies (APSCo) were also keen source of information for businesses. Intermediaries had learned about the requirement through newsletters, and through forums and seminars arranged by the industry bodies.

[6]Categories include: 'A' for self-employed, 'B' for partnership, 'C' for limited liability partnership, 'D' for limited company, 'E' for non-UK engagement, or 'F' for another party operated PAYE on the worker's payments.

"I've signed up to the gov.uk email and I've just sort of filtered it down into HMRC notifications. And I get those on a weekly basis … We are also members of APSCo … they represent the recruitment industry, and so they hold seminars for us, things like that."

Late filer, small, 1-49 workers on return

Those who had found out about the requirement via an umbrella company or a software provider tended to have more varied experience. In some cases, this was similar to the above, finding out about the requirement via an email, or direct contact with the company. But intermediaries found out about the requirement indirectly as well. In some cases intermediaries found out about the requirements after being sent a completed report by the umbrella company and enquiring what it was for. Likewise, certain companies noticed that their payroll software had updated automatically and a new report type had appeared. When intermediaries queried this with the software provider they were made aware.

"I think I probably either heard it from our software company who provide our maintenance or the umbrella company, one of them probably."

On-time, small, 1-49 workers on return

There were also instances of intermediaries happening upon the requirement in a more haphazard way, through chance encounters. An intermediary reported hearing about the requirement whilst listening to the radio, elsewhere they found out word of mouth from another intermediary or via friends and family.

"Strangely enough I remember hearing about [the requirement from] my father in law …in the newspaper… And he read it to me … that self-employed people were going to have to fill in some other layer of information."

Non-filer, small

Intermediaries also learned of the requirement through their agent or accountant; however, this tended to be a less consistent source of information. Intermediaries said that their agent had not always mentioned the requirement voluntarily and when asked they were often unable to provide any information about it. In other instances agents had assumed that their clients had known about the requirement themselves so had not passed on this information. Smaller businesses were found to be more reliant on their agent for advice.

"Well our accountant, tends to [inform them of new legislation and requirements], but yeah, they never did."

Non-filer, small, 1-49 workers on return

Where intermediaries had queries, they often turned to the sources from which they first heard about the requirement. In the case of intermediaries who found out about the requirement through chance, they tended to consult more official sources, such as Industry bodies or HMRC.

Intermediaries often described being able to find the advice and support needed to be able to submit their reports. However, there was a lack of certainty and consistency noted in relation to the information available and the advice given (including from the HMRC helpline and gov.uk website) which was said to result in intermediaries submitting reports not knowing if they were correct. Intermediaries who contacted HMRC reported receiving ambiguous advice; in one case, a business had called seeking clarification on how to categorise workers engaged with Umbrella companies. The intermediary reasoned that the umbrella company would treat any payment to them as employment income (Category F), however, the umbrella could also be classified as a Limited company itself (Category C). The intermediary was told by HMRC that they were free to report these workers in either of categories as they wished. This was found to be unhelpful as intermediaries wanted certainty that they were reporting correctly and wanted definitive answers.

2.3 Key factors underpinning non-reporting

Awareness of the requirement was directly linked to behaviour in relation to reporting. This was particularly true for non-filers; as noted, the non-filers were the least informed of all intermediaries and this was identified as a key reason for non-reporting. Three main reasons were given by non-filers for not reporting: lack of awareness, misinterpretation of the requirement and being advised not to report by HMRC. These all linked to awareness and understanding.

Lack of awareness

There were examples of intermediaries not filing because they were completely unaware of the requirement to do so. In one example, a business found out about the requirement for the first time at the point of recruitment for this project. As a result, they investigated the requirement further and subsequently went on to report during the most recent reporting period.

"They haven't sent me a letter...It's the first I've heard about this and I probably would know more than most"

Non-filer, small, 50-249 workers on return

Misinterpretation of the requirement

There were non-filers who had heard of the requirement, but had misinterpreted key information relating to how it was applied. This included misunderstanding the date it was introduced and who would be responsible for submission. One intermediary believed that the requirement came into effect in April 2016, rather than April 2015.

"I'm looking at what I can see here ... It's an email from one of our suppliers with the timelines and they talk about the consultation in June '15, the first agency reports be submitted August '15 ... April '16 new rules come into force."

Non-filer, small

Another was under the impression that reporting was the responsibility of the payroll company, rather than the intermediary themselves, because the payroll company they were using had told them that this was the case. The payroll company explained that the business had to get an 'Employment Intermediary code', and pass this on to the payroll company, which they would use to identify the business on any reports submitted.

"I think the ... [payroll] company do it on our behalf ... HMRC haven't told me anything about it."

Non-filer, small, 1-49 workers on return

Case Study 1 – Non-filer, small, 50-249 workers on return

This case study demonstrates how one intermediary failed to report because of a lack of understanding of how the requirement was applied. This case is more atypical because many intermediaries did not file because of a complete lack of awareness of the requirement, rather than misinterpretation.

Robert is the director of a small recruitment company that places contractors into the construction industry. The business has around 60 contractors who are on PAYE administered through an umbrella company.

Like many employment intermediaries, Robert has experience of meeting other HMRC requirements, such as VAT and Corporation Tax returns, and he mentioned having previously used the Construction Industry Scheme but has since switched payroll to an umbrella company to keep up with the HMRC requirements.

Typical of other businesses, he had heard about the new reporting requirement for employment intermediaries but had gaps in his understanding. His case was more exceptional in that, he was unaware if the requirement applied to his business at all. He said that the contract of employment lies with the umbrella company, and so he believed that it was not his responsibility to report on these workers (although he was not certain about this).

Robert said that because he did not employ the contractors, he did not collect information on their tax statuses or personal information such as national insurance number, due to disclosure and contractual restrictions, so would not be able to provide this information to HMRC. He stated that he could get this information if needed, but it would require an overhaul of existing contracts and systems to collect payment details.

Consistent with other intermediaries, the specifics of the penalty regime would not affect Robert's decision to report (if he thought he was eligible to report). He assumed there to be penalties attached to any HMRC obligation, and this would be no different.

Advised not to report by HMRC

There was evidence of intermediaries speaking to HMRC regarding the requirement and being told they did not need to report as they did not qualify, despite the fact they were providing workers who apparently qualified for the requirement (working through a limited liability company).

"Well just to be totally honest with you, we've had more than one [non-PAYE worker] since, I think the legislation came in back in April, didn't it? … At that time I contacted … HM Revenue [and Customs], and [they] were of the opinion that because we didn't have any payroll system, any PAYE as such, we were not affected by the need to submit a report or whatever."

Non-filer, small

2.4 Awareness of the penalty regime

Levels of awareness and knowledge of the penalty regime varied and can be seen to fall into one of four broad groups, including those who were:

- Well informed – intermediaries that had very good grasp of the different penalty-tiers, and the value of each penalty. For example, they knew that the penalties rose incrementally starting at £250, to £500 up to £1,000. Intermediaries also knew about the daily penalties for continued non-compliance, and that HMRC would consider applying more severe penalties on a case-by-case basis for the worst offenders.

"I'm aware of the penalty regime...I know it's £250 for your first offence and £500 for the second offence."

On-time filer, small, 1-49 workers on return

- Aware of the tiered aspect but not the value of penalties – there were intermediaries who knew about the scaling up of penalties with continued non-compliance, but were not aware of the penalty values themselves (£250, £500, £1,000). This tended to be based on experience of other penalty regimes linked to other HMRC tax obligations.

"I think it's £100 pounds, £200 pounds and £400 pounds up to a limit of a £1,000 pounds."

On-time filer, large, 250+ workers on return

- Aware of the initial penalty, but not the tired aspect or daily penalty – businesses who knew the value of the penalties involved, but were less aware of the scaling up of penalties with continued non-reporting, or that daily penalty were applied for those who consistently failed to comply with the requirement.

- Unaware of the penalty regime – these intermediaries were uncertain of the penalty regime, and in certain cases 'had no idea what would happen' if they were non-compliant. These intermediaries did not know what the fines would be for non-compliance and in some cases, what actually constituted non-compliance.

Factors such as size of business, links across the industry and the use of dedicated staff improved levels of awareness of the penalty regime, with larger intermediaries tending to be more informed about the regime. However, levels of awareness of penalties were not tied to the intermediaries' reporting outcomes. There is evidence of on-time filers being unaware of the penalties involved, as well as non-filers having a good knowledge of the regime. This suggests that knowledge of the penalty regime does not necessarily drive reporting outcomes.

2.5 An assumption of penalties

When discussing the penalty regime, it was clear that intermediaries *assumed* that there would be penalties attached to the reporting requirement. The assumption of penalties was widespread; intermediaries of all reporting groups, sizes and sectors expected penalties would be enforced for non-compliance – even those who lacked awareness of the penalty regime for this requirement. This expectation was informed by intermediaries' prior experience of reporting for other HMRC obligations, such as VAT, RTI and Corporation Tax, which all carry penalties for non-compliance. Businesses thought that this obligation would be treated in the same way as others, and so the application of penalties was expected.

Importantly, the assumption that penalties existed affected reporting behaviour. Intermediaries expected to receive a penalty for non-compliance and this encouraged reporting. This is discussed further in 'The role of the penalty regime in decision-making' in chapter three.

"I wasn't aware of the levels [of penalty]. I would have thought, generally I think it's £100 if you're late in your personal tax return, so I would have thought it would be that. I'm assuming it is…"

On-time filer, small, 1-49 workers on return

"There is a penalty and, in truth, I don't know the fine, because, it's like any, it's like speeding, yeah, if you're caught speeding, you expect a fine and you expect to pay it."

On-time filer, small, 1-49 workers on return

2.6 Questions on the penalty regime

A number of questions were noted in relation to the penalty regime. In particular, intermediaries wanted more clarity over the way that it would be applied. Questions raised by businesses included:

- Is there a grace period? When does the penalty regime come into effect? Intermediaries asked whether the penalty regime would come into force at the same time as the reporting requirement (April 2015), or whether there would be an introductory period where no penalties would be applied, to allow intermediaries to become used to the new requirement.

- How are penalties applied to late or incorrect submissions? Does this differ to deliberate non-compliance? Intermediaries made a distinction between those who were reporting, albeit late or inaccurately and those who were not reporting at all. As such, they wanted to know whether HMRC also made this distinction, and what impact that would have on the way that HMRC applied penalties.

- Are individual penalties given for every error within a report, or for the report itself? Where intermediaries had less confidence in their reports being correct, they wanted to know whether the number of individual errors within a report would each garner a penalty, or whether the report would be looked as a whole, and penalties applied that way.

- The guidance says that continued non-reporting will be dealt with on a case-by-case basis; how would this be applied? There was a sense among intermediaries that this element of the penalty regime was not fully explained, and they would have liked more information. For instance, intermediaries said they could only guess at how much the daily penalties would be and wanted greater clarity.

Importantly, intermediaries were less inclined to look for additional guidance or information on the penalty regime (in comparison to the reporting requirement) and there was no evidence of businesses approaching HMRC or industry bodies to query this. Intermediaries were more concerned with reporting on time and correctly, rather than investigating the specifics of the penalty regime.

2.7 Chapter summary

- Awareness and understanding of the reporting requirement varied; on-time reporters were more likely to be aware of the requirement and know what needed to be included in the reports than other groups. Non-filers exhibited a more limited awareness and in certain cases, non-filers were completely unaware of the requirement.
- There was a clear link between lack of awareness and non-reporting. Three main reasons were given for not reporting by non-filers: lack of awareness, misinterpretation of the requirement and being advised not to report by HMRC.
- The number of links across the industry was a key factor underpinning levels of awareness, with intermediaries who were more 'plugged in' to other companies, organisations, agents and industry bodies within the recruitment and employment sector more likely to hear about the new requirement. The size of the business tended to play a part in how connected it was to others, with larger intermediaries having more interactions.
- Intermediaries noted a range of queries about the requirement, including wanting clarification about which intermediaries needed to be reported on and who was liable to report (the intermediary or umbrella company).
- Knowledge of the penalty regime varied and intermediaries were less inclined to look for guidance or information on the penalty regime compared to the reporting requirement itself (which was their primary focus). However, it was widely assumed there would be penalties attached to the reporting requirement – even where intermediaries were unaware of the specific details of the regime.
- Questions were asked in relation to the application of the penalty regime, including: is there a grace period and how are penalties applied for late or incorrect submissions?

3 Decision-making in meeting the requirement

This chapter of the report provides details of the decisions made by intermediaries when meeting the requirement and the key factors driving these. It also considers the role of the penalty regime in the decision-making process and potential barriers to making the decision to report.

3.1 Key drivers of decision-making

As part of the research interview, intermediaries were asked to explain how and why they made the decision to report - considering the key factors that underpinned this decision.

The question of whether an intermediary decided to report or not is preceded by two fundamental conditions which need to be fulfilled. Firstly, businesses needed to be aware of the requirement and secondly, they needed to recognise that the requirement applied to their business. If intermediaries did not meet these conditions, then they did not attempt to submit reports.

Across intermediaries, the overwhelming response was to comply with the requirement, regardless of the filing group the business fell into, the size of the business, or the sector in which it operated. Businesses had not entered into lengthy deliberation but, rather, reported because the requirements applied to them, almost as an automatic response. A blend of drivers underpinned this response:

Habitual behaviour

Intermediaries had experience of compiling and submitting other tax and information returns. This included filing returns for PAYE via Real Time Information (RTI) on weekly or monthly basis, quarterly VAT returns and annual Corporation Tax reports. In some instances intermediaries mentioned experience of other obligations, such as end-of-year expenses (P11D) and Employer Payment Record (P32).

"Well, there's quarterly VAT returns, P32s, which is the payroll, internal payroll for the RTI PAYE. That's monthly. Or that goes through weekly but monthly we pay the P32, or submit that. And then the other thing really is the corporation tax for the end of the year."

On-time filer, small, 1-49 workers on return

Overall, intermediaries demonstrated a high level of compliance with HMRC obligations, and identified very few problems complying with these returns, with only limited experience of submitting returns late or receiving sanctions from HMRC. Regarding the employment intermediaries reporting, businesses took for granted that they would comply with the requirement because they saw it as an HMRC requirement. Intermediaries treated this requirement in the same way that they would other obligations, so there was no sense that they would treat it lightly or attempt to avoid it. A non-filer was adamant that they would comply with the new requirement as they would any other HMRC obligation. The reason that they had not filed was because they believed the requirement came into effect in April 2016, rather than 2015:

"The way I look at it from an agency perspective is that we as a business comply fully with HMRC from a VAT [and] Corporation Tax perspective … so we'll do the same for this."

Non-filer, small

Attitude toward HMRC

Attitudes towards HMRC were found to affect decision-making – particularly concerns about the implications of non-compliance. In a number of cases, intermediaries described being fearful of HMRC, in particular there was a sense of anxiety in relation to the implications of non-compliance and the difficulties this might cause to the business. Where intermediaries had received a penalty or experienced difficulties with their tax in the past, this was especially true. Broadly, intermediaries wanted to keep on the 'right side' of HMRC.

"Yeah, the experience of [receiving a fine] was very much a wake-up call and quite scary, so when the VAT bill's coming up, that is the one that I'm very conscious of, and I generally pay it two days before it needs to be paid, just to make sure there's no issues."

Late filer, small, 50-249 workers on return

There were also examples of intermediaries holding HMRC in high regard and as such wanted do the right thing by HMRC and make sure that they attempted to submit a report on time. This tended to be related to the intermediaries' outlook on the work that HMRC undertook more generally and this in turn this had a positive effect on their reporting behaviour.

Individual reputation

In a number of cases, the responsibility for collecting information and submitting the report fell to a member of staff working within an organisation (rather than the business owner themselves). This was often the case for larger businesses in the sample. In these cases, the individual felt that sense of responsibility and pressure to submit a report on-time and correctly as it was there job to do so and believed they would be underperforming in their role if they failed to do so. In these instances, it was not a question of choice but a matter of job performance.

"Basically you meet a reporting deadline and that's what you do, that is my job."

On-time filer, large, 250+ workers

Professional identity

Similarly to individual reputation, intermediaries also noted the desire to uphold their professional status within the industry, and compliance was identified a key part of this. Intermediary expressed concern that it would reflect poorly on the business and potentially harmful if they were identified as being non-compliant by clients, engagers or competitors. One intermediary explained that compliance was a key part of their business; they filed late during the first reporting period, however, had subsequently reported on time as they were concerned that this could negatively impact the back office service they provided.

"For us if we [were non-compliant] we'd get a bad reputation in the market, and it's all about our reputation and it's all about doing things correctly, that is what we want to have."

Late filer, small, 1-49 workers on return

3.2 Converting to PAYE

More exceptionally there was evidence of a business deciding to convert a small number of contractors to PAYE to avoid the additional workload. In this case, previous experience of implementing new systems to comply with other requirements, such as RTI, had put them off putting this in place for a small number of workers (total of five workers). Equally, they said that they recognised that there was no specific need for these workers to be engaged as self-employed, so persuaded the workers to convert to PAYE, thus avoiding the reporting requirement entirely. Had they not converted the workers, the intermediary would have been obligated to submit a report as their workers were eligible within the rules of the requirement

"I thought 'why have these five [contractors]?' we can easily find other people to do the job … Let's not get involved."

Non-filer, small

A more common experience amongst intermediaries was to engage with the requirement and attempt to submit the report, regardless of the number workers supplied. This suggests that intermediaries did not feel encouraged to convert their workers, or only engage with workers, on PAYE, by the introduction of the reporting requirement.

3.3 The role of the penalty regime in decision-making

The research explored the impact of the penalty regime on decision-making and behaviour. When asked, intermediaries were keen to make clear that the penalty regime for this requirement was not the primary motivator behind their intention to comply with the requirement. In fact, there were larger intermediaries who said that they were unconcerned by the financial implications of receiving a penalty. Importantly, intermediaries were found to be more focused on understanding and meeting the requirement and often gave little consideration to the penalty regime.

However, rather than knowledge of the specific penalty regime working as a driver of behaviour, the *threat* of receiving a penalty motivated businesses to take the most risk-adverse course of action (i.e. to report on time or accurately). Ultimately, penalties formed the backdrop against which the decision-making process played out and can be seen to underpin a number of the factors noted above (habitual behaviour, attitudes towards HMRC, individual reputation and professional identify). For example, the threat of penalties impacted on attitudes towards HMRC; with intermediaries concerned about falling foul of the rules and receiving a fine. Similarly, individuals raised concerns over receiving a penalty and the effect this would have on their personal reputation and that of the business. Intermediaries felt they could be left with a 'black mark' against their name (or that of the business), which it was said would result in the individual feeling 'disappointed', 'frustrated' or 'angry' with themselves.

The penalty regime was said to encourage businesses to report accurately and on time. Intermediaries reasoned that if they were going to report, they may as well comply with the requirement entirely, thus avoiding a penalty. Later filers shared this sentiment and demonstrated similar levels of concern for compliance as on-time filers. The difference being, however, that late filers incorrectly believed that that they had filed on time, often due to misunderstandings around the report upload process. Therefore, they were unaware that they had filed late and could be liable for a penalty. Smaller intermediaries tended to be more mindful of the penalties associated with non-compliance, who indicated that the fines would be harder to manage as they increased, with multiple late or incomplete submissions. They felt that the fines would have an effect on the business and its ability to continue to operate.

"To be honest, I've got no intention of filing anything late … it's always in the back of my mind for any submission to HMRC about any fine, as a small business I can't really afford to be fined."

On-time filer, small, 1-49 workers on return

In certain circumstances, penalties were said to 'tip the balance' and nudge intermediaries to report in cases where they were weighing up the pros and cons of reporting or not reporting. Businesses hypothesised that the specifics of the penalty regime would be taken into account if they were in danger of not filing on time due to competing time requirements and were trying to judge which would be least harmful. There were (exceptional) cases where participants had weighed up whether to comply and were swayed by the likelihood of penalties.

For example, one late filer was overstretched in his small businesses, and already felt that he did not have enough time to do most of the things he was supposed to. The addition of the reporting requirements contributed to his feeling over-burdened and he considered ignoring them, but ultimately decided non-compliance would likely lead to penalties.

In another case, an on-time filer did not want to risk the possibility of losing skilled workers, by requiring them to comply with the requirements. Again they ultimately reasoned on that on balance it would be better to comply with the requirements, rather than risk any penalties.

Case Study 2 – On-time filer, large, 250+ workers

This case study illustrates how intermediaries, despite the scale and burden associated with reporting, remained determined to comply with the requirement. In particular, this exceptionally large intermediary had a considerable amount of work to complete and return the report.

Catherine works for a large recruitment bureau which places temporary and permanent staff with end clients. She is part of a dedicated compliance team and had overall responsibility for submitting reports for up to 20,000 contractors each month. These contractors were paid through more than ten different agencies, including umbrella and limited companies.

The business had been running for over 60 years and placed high importance on meeting tax obligations and being compliant. Catherine is experienced in submitting PAYE, VAT and Corporation Tax returns and said that compliance was a key part of her job.

Catherine had a good understanding of the reporting requirement for Intermediaries. Specifically, she said it was a statutory HMRC reporting requirement which required the business to collect contractors': names, National Insurance numbers (or date of birth and gender), addresses, and details of their employment. She was aware of an 'automatic' penalty of £250 for late or non-filing (which increased for subsequent non-compliance), and knew about the discretionary penalties for erroneous returns. She was worried about the clarity of guidelines that HMRC has provided, in that different interpretations could lead to inconsistent reporting between similar businesses.

Catherine felt that the penalty regime had no impact on the business' decision to report; the value of the penalty was trivial to them.

She thought that the requirement had a big impact on the way the business gathered data from contractors. When they heard about this requirement, the business drew on their in-house experts to modify their existing systems and incorporate quarterly reminders into existing software. She mentioned that reporting involved a several processes:

Creating a dedicated email address for contractors who have queries about why the data needs to be collected, or how it will be used;

Submitting a request to the IT team to download internal data (which can take up to a week);

- Sending out requests to agencies for missing data where different systems have been used (which can take around two weeks to hear back);
- Collating and formatting the data using MS Excel to minimise the number of reports;
- Loading the data onto the HMRC portal; and
- Dealing with error messages on the portal.

Given the amount of work involved in complying with the requirement, she questioned the value of it. However, she was resolute that she would remain compliant, regardless of competing business priorities.

3.4 Attitudes towards the requirement and the penalty regime

The reporting requirement

Intermediaries were unclear about the reasons underpinning the introduction of the new requirement and often identified it as being *different* to other tax obligations (insofar as it was an information report). Although this did not affect decision-making in relation to reporting, it did impact on attitudes towards the requirement and in particular perceptions of fairness.

Two main reasons were given by intermediaries for why the reporting requirement had been introduced. Firstly, they thought that it was a way for HMRC to close a tax loophole and make sure that non-PAYE workers were paying the correct tax. Secondly, businesses saw it as a general tightening of regulation in the employment and recruitment sector by checking up on intermediaries, as the Government was distrustful of the industry. There were intermediaries who understood the aim of the requirement was to encourage employment intermediaries to consider the working arrangements of their workers, and review whether they should be engaged as PAYE workers – but this was not widespread.

"I suspect purely and simply that they're trying to make it as difficult as possible, to force people only to employ people PAYE and I think it's purely and simply down to forecasts and tax revenues."

On-time filer, large, 250+ workers on return

In some cases, the requirement was seen as a legitimate request to support tax collection by ensuring workers paid the right amount of tax. In contrast, others were more critical believing intermediaries were gathering information on behalf of HMRC and as such 'doing HMRC's job' or they felt responsibility should fall with the workers themselves (rather than the intermediary).

"I can see how it makes it easier for them to track people but still think that they shouldn't really be asked to provide such personal details , it feels like you are doing their job for them."

On-time filer, small, 1-49 workers

There was a sense of concern that the recruitment industry was being targeted and a fear that this would lead to loss of flexibility in the industry for workers, employers and intermediaries. Intermediaries felt this eroded their freedom to choose how to engage with their workers and it caused concern.

"The worry is that … self-employed people will fall [under more requirement] … the general cut and thrust of it is to standardise. That will destroy the flexibility of the labour market in the UK."

On-time filer, large, 250+ workers on return

The opinions that intermediaries held tended to be informed by prior experiences from within the sector. Intermediaries felt that the employment industry had undergone significant changes in recent years and legislation changes such as IR35 were mentioned. This formed a backdrop, along with talk of the Chancellor George Osborne wanting to reform self-employment and workers' rights, against which intermediaries understood the introduction of the requirement. As such, intermediaries formed their opinions from numerous sources, including official sources such as HMRC, unofficial sources including industry bodies and the media and more informally from fellow employment intermediaries or umbrella companies.

No matter what intermediaries thought of the requirement, there was a common desire for HMRC to clearly state why it was asking for this information.

"HMRC should be clearer on why they're doing it. We need to understand its importance, and at the moment I don't know why I'm doing it, I'm just doing it for the sake of it."

On-time filer, small, 1-49 workers on return

Penalties

Intermediaries accepted the general use of penalties by HMRC and felt they were appropriate for motivating businesses to comply with regulations, both generally and in the case of this requirement. However, questions were raised about the legitimacy of applying penalties in this instance (at this time) as it was said to be:

- An information report rather than a tax obligation – as stated above, intermediaries thought the requirement was different to other tax obligations and as such, they felt penalties should be less severe.
- Helping HMRC in their role – the information gathered was seen to supplement HMRC's knowledge and as such intermediaries thought they were 'doing HMRC a favour' by compiling and submitting these reports.
- A new requirement – intermediaries felt they had not had time to become familiar with the process of reporting, so felt that applying penalties at this stage was unfair.
- Not widely communicated – there was a sense among intermediaries that this requirement had been widely communicated and that it was too early to apply penalties.
- Hard to comply with – compiling the reports was said to be a difficult task especially for those who had to gather information from workers, umbrella companies and third parties (and this was noted across all types of filers). Intermediaries felt that they were trying to comply with the requirement, so should not be penalised for something which they had limited control over.

Intermediaries thought that the level of the penalty should be proportionate to the size of the business or the number of workers that they had to report on. This was raised by smaller intermediaries who questioned the 'fairness' and 'effectiveness' of applying the same level of penalties to all intermediaries.

"When you're small organisation cash flow is king and to have the threat of £250 yeah, it makes you mindful, again bigger organisations, £250 is nothing … maybe if it was looked at on an organisation size or employee number size then it makes it a bit fair."

On-time filer, small, 1-49 workers

Intermediaries also felt that HMRC should distinguish between honest mistakes and intentional non-compliance. If a business had decided to opt-out of the reporting requirement, then intermediaries believed that HMRC should attempt to locate and penalise these businesses, rather than those who submitted a report in good faith but reported late or incorrectly.

"If people are actually avoiding it, not through just mistakes or anything, but if people are actually avoiding producing it, that's a different matter. If they're knowingly not being compliant that's a different matter."

On-time filer, medium, 50-249 workers on return

Besides the current penalty regime, intermediaries also suggested alternative arrangements for encouraging and enforcing compliance. Following the point above, intermediaries felt that harsher measures should be applied to persistent and wilful non-reporters. For example, businesses thought that HMRC should threaten these intermediaries with investigations, which were seen as particularly unwelcome, so should have the desired effect.

"I think it's interesting that the only punishment is financial, I think it would be more concerning to some companies … to say actually, we may well investigate your business practices, because that would … put the fear of God into most companies."

Non-filer, small

Otherwise, intermediaries thought that HMRC should offer more support to ease and encourage the report process. This included the use of email alerts and reminders; intermediaries had experience of receiving these messages for other obligations and had found them very useful; they thought this could help increase compliance with this requirement as well. Incentives were also suggested as a possible 'carrot' to boost reporting. No specific details were provided, but financial incentives were thought to be a good way of encouraging intermediaries to report on time and accurately.

"Why not send a reminder about the intermediary report? I've not seen anything about the legislation. Be good to get an email, you get one with VAT".

On-time filer, small, 1-49 workers on return

3.5 Chapter summary

- In order to submit a report, intermediaries firstly had to be aware of the requirement and recognise that they were eligible to report.
- The overwhelming response to the requirement was to comply; this was underpinned by a number of factors: habitual behaviour, attitude towards HMRC and upholding personal and professional identity.
- Penalties formed the backdrop against which the decision-making process played out and underpinned the key drivers identified (as noted above). Importantly the threat of penalties motivated businesses to take the most risk-adverse course of action (i.e. to report on time or accurately) and also worked to 'tip the balance' of decision-making.
- Intermediaries were unclear about the reasons underpinning the introduction of the new requirement. Although this did not affect decision-making in relation to reporting, it did impact on attitudes towards the requirement and in particular perceptions of fairness.

4 The process of submitting a report

Intermediaries are required to submit a spreadsheet report to HMRC at least every three months via the Government Gateway website. Intermediaries must report on the details of the workers (that they are not operating PAYE on) such as their NI number and UTR, and provide information on the worker's engagements, for example, their start and end dates.

This chapter of the report details intermediaries' experiences of submitting the reports and offers insight into the issues faced by intermediaries at the outset of the process, the range of factors underpinning experiences and the reasons why intermediaries filled late or incorrectly. A summary of how intermediaries were affected by these factors, as well as other factors such as awareness, is provided in Appendix B.

4.1 Experiences of filing

A range of factors were found to determine how straightforward, demanding or time-consuming it was to develop and submit the information report. These factors included: the number, type and response of contractors employed by intermediaries; the length of the supply chain; the internal resources of the business, the systems and processes in place; and the experience of HMRC systems and guidance. It should be noted, that while these factors impacted on businesses' ability to report on time or correctly, it did not impact upon intermediaries' decisions on whether to report or not.

It should be noted that differences in experience were often determined by the size of the business. In general, large and medium businesses typically (although not without exception) found it easier to meet the requirements. This was because although they had an increased burden in terms of compiling reports (as they typically had more contractors) they also tended to have dedicated staff and better IT systems in place to handle the workload. Smaller companies, conversely, tended to have a smaller contractor base, which was more manageable. However, in these businesses reporting was usually carried out by a director encumbered with other responsibilities and they did not always have appropriate IT systems to help ease the process of reporting.

Contractors

Contractors played an instrumental role in intermediaries' ability to gather the data required to compile the information report. Three aspects were noted: the number of contractors they were required to report on, the willingness of the contractors to provide the information requested where records were not complete and the turnover of contractors.

Number of contractors

The number of workers that businesses were reporting on varied considerably, and this directly impacted on the workload associated with reporting. Numbers ranged from a total of four contractors, up to submitting reports for tens of thousands of contractors. For one large intermediary, reporting on 20,000 contractors, compiling each individual report was said to take a month working full time. This was due firstly to the scale of the operation, which involved numerous contractors and umbrella companies, and secondly compiling the information manually. Complication was added by contractors being resistant to providing the required information, umbrellas sending information in different formats, and the information from umbrellas and contractors sometimes conflicting or being incomplete or out-of-date. There were also issues at the submission stage which, as explored later in this chapter, produced multiple error messages. This was considered to be a significant, and ongoing, burden on their time and importantly the intermediary was unclear why the reports were necessary. Despite the considerable burden, this intermediary was nevertheless reporting on time.

"I think if [HMRC are] getting something out of it then it's helpful, but possibly not quarterly, possibly once a year … so that you're not wasting four months a year, and I do genuinely mean wasting four months a year, doing the same thing over and over again and that being a fairly basic process that, to be honest, has very little value."

On-time, small, 1-49 workers on return

Willingness of contractors to provide information

In a number of cases, intermediaries did not hold all the information they required on contractors to complete the report. When intermediaries contacted their contractors to ask for this information, they were often found to be resistant to providing this, as they were unfamiliar with the requirements and expressed a degree of suspicion. Supplying home addresses was a particular concern for limited companies that had already provided a work address. Similarly providing National Insurance numbers and Unique Tax Payer References (UTR) raised concerns for those who had already provided a company number.

"We've had some questions where contractors, older contractors, and quite rightly so, have turned round to us and said, but I work through a limited company, and that's an entity in its own right, why do you want my National Insurance Number … [but] we've got to collect it."

On-time, small, 1-49 workers on return

There were also more general concerns about intermediaries reporting on the tax affairs of individuals. This raised concerns about why this was being done, whether this information would always be accurate, and if there would be consequences for the contractor (such as an investigation from HMRC) if it were not.

Intermediaries made various suggestions to address the issues they had encountered with contractors' resistance to providing information. Intermediaries requested that HMRC communicate to workers directly the need for the information and even suggested that workers send their information directly to HMRC. Intermediaries who were struggling to compile information on workers requested that be able to compel those who were not cooperating into providing the required information.

The process of contacting contractors and the time it took to negotiate with them and for them to provide the information (particularly where they were resistant) contributed to reports being submitted late or incomplete. As businesses developed their approach to meeting the requirements, they had often set up new processes for new joiners to collect the required information for future reports.

Contractor turnover

The turnover of workers played a part in how easily businesses were able to compile information on workers. Businesses with a stable contractor base tended not to need to spend additional effort collecting personal information for new workers. Whereas intermediaries with a high turnover of workers found that if a contractor had left their books, it was harder to persuade them to provide the personal information required for the report. Larger agencies, with a greater number of contractors often described a changing contractor base whereas smaller agencies tended to be more stable.

Internal resources

The internal staffing resource available to manage reporting was found to impact on experiences of meeting the requirements. The size and structure of the intermediaries' business affected who was allocated responsibility for meeting the reporting requirements. Large and medium-sized businesses tended to have a dedicated employee who took on the reporting process as a core part of their role. This was usually a 'back-office' or administrative member of staff, such as the Head of finance, the Accounts or Payroll manager, or even a bookkeeper or more junior staff member. They generally filed on time (although sometimes late) and were aided by having the appropriate skills in manipulating financial records and spreadsheets. These staff had typically integrated reporting into their workflow – they tended to see reporting as part of their professional role, and felt that missing a reporting deadline would be a professional failure on their part. One accounts manager, who had been with her company for 15 years, saw one of her core responsibilities as ensuring that the company was always compliant with HMRC.

"I'd be really cheesed off if I got a penalty, it would be embarrassing and be a reflection on me"

On-time filer, medium, 50-249 workers on return

In contrast, among smaller businesses the reporting process was usually undertaken by either a company director, or another senior employee, such as the Managing Director or Finance Director (although it should be noted that there were examples of this across all filer groups). For directors, the reporting requirement was considered to be an additional burden on top of their core role. They were often time-pressed and struggled to report on time, sometimes citing a lack of time to read and understand the HMRC guidance beforehand. One director, for example, found that the return was typically taking three days of his time, which he would have preferred to have spent on fee-earning activities, but he had prioritised the return as he felt it was in the best interests of the company to comply with HMRC.

"It's very time consuming ... but we're a company that believe if we've got to do something then we need to make sure it's 100% before we submit it."

Late filer, medium, 50-249 workers on return

Software and automated systems

The IT and software systems available to intermediaries was also seen to impact on ease of meeting the reporting requirements. Specifically, automation reduced the time burden associated with reporting and having software that assisted with this task made reporting generally easier.

Intermediaries often had third party accounting software already in place, and some systems had updated themselves to provide the reports. Examples of software where this was the case included Quickbooks, interSoftware and some Sage packages. In the case of large businesses, they sometimes had their own bespoke IT systems created by their IT department or an external company in order to produce the information required for reporting. One intermediary had commissioned an external company to develop a new bespoke reporting system to compile and format their information.

"It saves time, all I have to do is press a button ... the whole thing just takes 30 minutes"

On-time filer, small, 1-49 workers on return

Cost was, however, mentioned as a particular barrier to accessing software, and some intermediaries had researched potential bespoke software but had found it was unaffordable.

"It's impossible without a system … There are software systems out there [which could help with reporting], but we haven't been at a stage where we've been big enough to use a system, and they're very, very expensive. At least £10,000"

On-time filer, small, 50-249 workers on return

Where intermediaries did not have automated systems, they often created their own step-by-step processes, generating standard accounting reports from software and integrating these with other records. This could involve combining information from accounting software with records of worker's personal details, or might involve a more complex process where information had to be drawn from several internal and external sources. Setting up these processes had been time consuming especially as systems were being adapted and used for tasks for which they were not designed.

"We spent a lot of time to come up with a way to export information, because it's just not straight forward, and there's a process that is about five pages long."

Late filer, medium, 50-249 workers on return

Smaller businesses noted that working with systems that were not designed for meeting the reporting requirements created an extra administrative burden that larger companies may not have.

"It's not hard, but it is quite labour intensive. I don't know whether that's because we're a small agency, I don't know whether the larger agencies might be, might have good systems that hold the information, but because we're a small agency we have our financial package that wouldn't require those different things that the Government are asking for, so it does mean it's fiddly."

Late filer, medium, 50-249 workers on return

It was acknowledged by those using manual processes that they were inevitably more prone to human error, and accordingly felt that they would be at greater risk of submitting incorrect reports.

Umbrella companies

As outlined in 'Awareness of the reporting requirement' in chapter two, there were examples of the umbrella companies' being instrumental in raising awareness of the requirement, and they were also found to be supporting the development of the information return by providing the required information on workers. There were even examples of umbrella companies sending a completed report to intermediaries who then simply uploaded it, sometimes without even checking the file, or even necessarily understanding the details of what was being submitted. Proactive umbrella companies often featured when interviewing on-time and late filers and were very much seen as supporting on-time and correct filing. Intermediaries explained that, as they saw it, it was in the umbrella company's interest to comply otherwise they could risk losing business.

"I've got some properly good relationships with like the umbrella company, and the accountant. The umbrella company actually gives me all the information I need in a excel spreadsheet, and then I just upload that. So with regards to if I had to generate that myself, I wouldn't know where on earth to start, really"

Late filer, small, 1-49 workers on return

There were examples of smaller Umbrella companies being unable to support intermediaries with the requirements due to lack of staffing resources, and so employment agencies had stopped working with them in order to avoid submitting incomplete or late returns and incurring a penalty. These difficulties were found in particular among late filers who had been chasing the umbrella company, ultimately without success, which caused them to miss the reporting deadline.

Finally, concerns were raised about intermediaries not being able to compel umbrella companies to supply the information, and yet the intermediary would still be held solely responsible for reporting on time.

Length of supply chain

As stipulated in the requirement guidance, employment intermediaries are only required to submit information about the workers they supply directly to end clients. All business that supply workers to other intermediaries (also known as second tier intermediaries) are not required to report on those workers. Where several businesses were involved in the supply chain, there could be confusion regarding who should be reporting candidates to HMRC. Businesses wanted, in particular, greater clarity on how to identify the end client. There was confusion over who the end client was in situations where workers were supplied to businesses that were not typically thought of as employment agencies, such as consultancy firms, who then apparently supplied on the workers so that they could conduct their work at another site.

"Some of the headaches that we've had around intermediaries reporting is the different interpretations of whose responsibility is it to report this candidate, based on who the end client is and where we fall on the chain so, I think there's been major variations of people's understanding on that."

Late filer, large, 250+ workers on return

"I needed a helpline where they would be able to clearly say "Company A is your end client" but not having anybody to talk to meant I could argue either way."

On-time filer, small, 1-49 workers on return

In some cases, businesses believed they were supplying workers to an end client but the workers were then supplied on elsewhere unknown to the intermediary – only finding this out when the company contacted them to ask for information in order to submit a report. Intermediaries felt they had no control over whether the worker was supplied on or not and emphasised that they could not compel another business to tell them if this was the case or not and this resulted in uncertainty regarding who the end client was.

"We would love it if it never happened, but sometimes we find ourselves in the situation where we've supplied workers to clients and they've asked us for their details. We were left thinking 'why have they asked for this?' and it turns out that they were supplying them on themselves … I'd never really given any thought to the fact that we have clients who supply to other clients."

On-time filer, large, 250+ workers on return

"I cannot know in all circumstances, I just don't know. We supply, we can't ask them to tell us how they're using that, it doesn't work like that. And unless HMRC make them tell us, what are we meant to do?"

On-time filer, large, 250+ workers on return

It was believed that a lack of clarity over the end client risked omissions and was already resulting in duplication, as several businesses were reporting on the same worker. It was also highlighted that the duplication would not be perfect as the payment figures would be slightly different from each intermediary, as each tier of agency is taking a percentage cut.

"Would HMRC rather get double reporting than not get any reporting at all? But obviously they'll get certain figures from us and they'll get certain figures [from the other agency], because these figures all include a margin. So it's still messy I think."

On-time filer, large, 250+ workers on return

It was also found that second tier employment agencies – those agencies who supply workers to the intermediary – could be slow or resistant to providing information on the workers – so there was effectively a block in the chain when trying to identify the information required. Intermediaries sometimes reasoned that this was because the information was commercially sensitive, as once the intermediary knew all the details of the worker, this opened up the possibility that they could 'steal' them away from the second tier agency. Some second tier agencies also resisted on the grounds of protecting their clients from having their personal data shared without (apparent) good reason. These barriers were cited in some cases of late reporting.

Issues with HMRC systems

Issues were noted with HMRC systems, which were said to be contributing to late reporting and also negatively affect intermediaries' experiences of trying to meet the requirements.

Intermediaries were sometimes unaware that the report had to be uploaded onto the Government Gateway once it had been filled in, and some struggled to find the guidance on this aspect of reporting online. Intermediaries were in some instances unfamiliar with the Government Gateway, and so this became another aspect which they had to familiarise themselves with in order to meet the requirements.

Business also had problems at the point of uploading the report, finding that it required very careful data entry. Misplaced commas or spaces produced errors once uploaded – all of which needed to be corrected before the report could be submitted. Even companies with automatic processes found that at this stage, they often had to make (sometimes extensive) manual adjustments.

"I have to submit for 10,000 contractors. When I submit, I get 18 pages of error messages."

Late filer, large, 250+ workers on return

One director found that a significant amount of the time he was spending on reporting was taken up by editing the data so that it would be accepted without errors:

"I'm doing but near enough 2 or 3 days full working on the spreadsheet; I'm submitting it and it's bouncing back because it's not happy with it then I'm having to go and change it and every time, which is very frustrating. Every time

if it comes back and tells me there's a slight error, I still have to go and fix all these lines and it could be hundreds of lines putting zeros in front of it."

Late filer, medium, 50-249 workers on return

Other issues with the form included:

- The UTR column was formatted for formulas
- The form did not accept overseas addresses without postcodes
- The form did not accept company numbers beginning with a zero
- The CSV format automatically saves dates and amounts in a different format, which then have to be corrected manually

Problems with the process of uploading the form linked to negative perceptions of the process as a frustrating experience – with a view that if intermediaries are asked to provide this information, the systems should better support this process.

"If we're going to be forced to take on additional requirements, at least give us the right information, on time, and give us the tools [to do it]."

Late filer, medium, 50-249 workers on return

Importantly, there was evidence of late filers believing they had successfully uploaded at quarter one, only to find out (via an error message) at quarter two that the first report had not been received. This seemed to be due to participants not having clicked through to a final submission page. This had happened to over half of the late filers in the sample.

"I know now that I need to press the next button to get a report number but the system doesn't prompt you, it doesn't say if you haven't got your 10 digit number, your report hasn't been successfully submitted. It's only because we do the PAYE RTI and that we thought hang on we should be getting something."

Late filer, large, 250+ workers on return

4.2 Improvements over time

Intermediaries typically found the process of compiling the required information had become quicker and more straightforward over time. It was principally the first stage of researching the requirements and compiling the details that was found most time-consuming as the requirements were unfamiliar and intermediaries did not always have the information they required. Over time intermediaries had typically implemented new systems or processes to aid reporting, such as collecting workers' information at the recruitment stage.

"Now our system doesn't allow us to add a new supplier to it so we're unable to issue a contract to any new contractors until we've checked that they're going to be compliant with the new legislation."

Late filer, large, 250+ workers on return

It was found that by adapting their systems and processes, and more generally becoming more familiar with how to meet the reporting requirements, late filers were now reporting on time.

Case Study 3 – Late filer, large, 250+ workers on return

This case study illustrates common difficulties encountered by late-filing intermediaries. It explores how confusion arises over which agency has responsibility for the reporting requirements, the challenges in compiling information, even with a bespoke IT system in place for reporting.

Michael is the head of financial operations at a large recruitment business which places contractors into the public sector. Their contractors are paid through various umbrella companies or as personal service companies (PSCs). The business also manages recruitment for their end clients, which means they sometimes use second tier recruitment agencies to supply contractors. The business then pays each of these agencies, who in turn pay their contractors. There has been a lot of confusion over whose responsibility it is to report for this requirement, which has led to reporting duplication between those involved in the supply chain.

Michael originally heard about the new reporting requirement through one of the umbrella companies and then visited various online forums to find out more information. The umbrella had informed him that the requirement was coming in, but not details of what information he needed to provide. He described facing two challenges at the outset: firstly, understanding what was required of him, and secondly, actually collecting the information.

Michael believed that HMRC put the legislation into place to identify which workers should be paying (more) tax. He understood that he needed to provide information on contractors' employment status, home address, name, date of birth, gender and whether the worker was paid through a PSC. He was not familiar with the specifics of the penalty regime but understood there would be fines for late reporting, and the threat of receiving a fine motivated him to try to report on time.

Michael's first report was rushed and submitted late. This was firstly because he struggled to understand what information was needed to meet the new requirements and secondly because the second tier employment agencies were slow to provide the information. Some agencies even refused to provide the information he needed to report (e.g., home addresses) due to concerns about data protection.

To compile the information, Michael uses the business' bespoke payroll systems to create output files on their contractors, which require minimal checking and formatting. However, he found that the second tier agencies were using a range of different software and were sending the information in varied formats. To address this issue he now sends out the HMRC template to second tier agencies and asked them to populate the data. Unfortunately, he has found that different suppliers interpret the guidelines in various ways, leading to discrepancies which he has to address, although this has become easier over time.

Michael has found that the ease of meeting the reporting requirement depends on how much he needs to chase the second tier agencies or manually clean the data. He has found that the biggest barrier to reporting is the meticulous formatting required to avoid error messages on the HMRC portal during submission. He believes that clearer HMRC guidance would make the process easier for him, and for the second tier agencies.

4.3 Chapter summary

- A range of factors affected the experience of submitting the information report, including: the number, type and response of contractors employed by intermediaries; the internal resources of the business; the systems and processes in place; the response of umbrella companies; the length of the supply chain; and perceptions of HMRC's systems and guidance.

- Depending upon the interaction of these factors, the process of reporting varied from a short, straightforward process, which could be completed in under and hour, to a long 'onerous' process, which could take several weeks of full time work.

- Improvements over time were occurring as intermediaries became more familiar with how to meet the requirements and began to set up processes and systems to improve the efficiency of reporting.

5 Key findings and suggestions for change

This chapter provides a summary of the key findings and outlines the suggestions for change and improvements noted by intermediaries as part of the research to increase awareness and facilitate reporting.

5.1 Key findings

Across the research a number of key findings were noted and these are detailed below:

- Awareness: Lack of awareness was identified as a key reason for non-reporting. Awareness varied by how 'plugged in' intermediaries were to potential sources of information such as umbrella companies, industry associations, commercial software companies and communications from HMRC. There was an element of chance in which sources of information intermediaries were exposed to.

- Understanding: Intermediaries who were reporting typically understood how to meet the requirements, although there remained areas of confusion, particularly around how to report on workers paid through umbrella companies. There were intermediaries who were uncertain about why they were being asked to report, and these individuals sometimes felt that meeting the requirements was not a worthwhile use of their time. This was not, however, currently affecting their decision to comply.

- Compliance: Intermediaries who were aware of the requirements and who recognised that the requirement applied to their business had attempted to comply. A mixture of behavioural drivers underpinned this 'compliance mind-set', including habitual compliance with HMRC and a sense of professionalism (both personally and at business level). Intermediaries also did not want to risk 'getting on the wrong side' of HMRC and there were no examples of deliberate non-compliance.

- Awareness of penalties: Typically intermediaries *assumed* there was a penalty regime attached to the requirements, but knowledge of the specifics of the regime varied considerably. Importantly, intermediaries noted being more focused on finding information and guidance to support the reporting process, rather than on the penalty regime attached to this.

- Penalties and decision-making: The fact that HMRC generally uses penalties to enforce tax obligations was a motivator, but the specifics of the regime typically did not influence whether the intermediary decided to report. There was evidence that knowledge of the penalty regime was increasing intermediaries' motivation to report accurately and on time (where a decision to meet the requirement had already been made), particularly for smaller businesses for whom penalties would have a greater impact. However, for some larger businesses the financial implications of penalties were of little consequence. Penalties can also be seen to 'tip the balance' in favour of reporting in (exceptional) cases where the intermediary is weighing up the decision.

- Attitudes to penalties: The use of penalties by HMRC was broadly supported. However, questions were raised about the 'fairness' of penalties in this case and at this point in time, given the perception it was: an information report (rather than tax obligation); a new requirement that had not been widely published, and was 'helping' HMRC collect information on workers. The level of penalties was sometimes felt to be too punitive in the case of smaller businesses. Intermediaries also felt that it would be unfair if they received a penalty for a late or incomplete submission when the delay had been caused by other parties, such as contractors or other intermediaries that was outside of their control.

- Process of reporting: The activities undertaken to compile a report varied considerably between intermediaries and were determined by a range of factors, including: the number of contractors, the contribution of umbrella companies, the internal systems and administrative organisation of the intermediary and the length and nature of the supply chain. There was clear evidence that the process was becoming easier over time as intermediaries adapted their systems and became more familiar with the requirement. As such there was evidence of intermediaries who had been non-filers or late filers (in earlier reporting quarters) reporting on time at subsequent quarters.
- Improvements: Suggestions for improvement focused on wider and clearer communication from HMRC along with increased accessibility to tailored advice, and making the tools required for reporting more user-friendly.

5.2 Suggestions for change

A number of suggestions were made for better communication around the requirements, including: campaigns to raise awareness, improved guidance (to aid clarity), and increased interaction with HMRC. Intermediaries also suggested measures to improve the user experience, including receiving confirmation and feedback on submitted reports; and more effective search functions on the Gov.uk website. Suggestions are discussed below.

Improved communications

Publicity and messaging

It was suggested that HMRC should contact intermediaries, agents, and trade bodies to help ensure that all relevant parties were aware of the requirements. Communicating the requirement to contractors was also suggested which would help make them less resistant to providing information. This wider communication would, it was felt, improve understanding by ensuring knowledge was based on accurate information rather than hearsay via a third party, as had been the case in some instances. Intermediaries typically felt that communication from HMRC by letter would be appropriate to highlight the importance of the requirements.

"I've probably not taken it as seriously because I've heard it from a third party than I would have done if I'd got a letter from HMRC to say look this is what you need to be doing."

Non-filer, small

There were also requests that HMRC should address frequently asked questions in communication materials (and on the website). Examples of common queries are described in chapter two, and focus on how umbrella companies should be treated and how HMRC is using the information. Step-by-step guidance in plain English, providing definitive instruction, was also requested, as intermediaries sometimes felt that they had to do considerable desk research, such as reading through business forums, in order to understand the requirements.

"What I would like is a clear directive of precisely what they'd like us to provide. Something really clear-cut."

Non-filer, small, 1-49 workers on return

Forums and helpline

To support the publicity campaign, intermediaries suggested that HMRC should hold forums and webinars to help businesses understand the requirements. It was suggested that these could replicate the function of the (now defunct) Business Link service, which was a government initiative set up to support small businesses, particularly around tax and compliance.

It was also requested that HMRC provide a dedicated helpline to assist people with queries specific to reporting for their business. Intermediaries tended to find that when they called the general helpline the call handler was unable to answer their queries. One result of this had been that non-filers, particularly those who had only heard about the requirements through word of mouth, had struggled to establish whether they were eligible for the requirement or not.

"Now I haven't been told it, and when I phone them up they don't know, I can't get through to who I'm supposed to speak to."

Non-filer, small

Reminders

Intermediaries requested email reminders from HMRC that a report was due. These would function like the reminders intermediaries were already receiving for VAT; primarily as a back-up in case the reporting had been overlooked in a particular quarter.

"It would be good if HMRC can drop us a calendar email or something to say that your report is due … It would certainly jog your memory."

On-time filer, small, 1-49 workers on return

Website improvements

Confirmation and feedback

Intermediaries wanted reassurance from HMRC that their reports had been received and so requested an email providing confirmation of their submission. This was particularly the case with those who had experienced issues uploading the form, but was a common request across the filing groups, partly because it was seen as common practice for companies and organisations to send email acknowledgements, either when contacted, or when a service had been paid for. Moreover, intermediaries were used to HMRC emailing confirmations after submitting a tax return, and were expecting a similar acknowledgement for submitting an information return.

"When you submit a CIS return you get a helpful email back from HMRC to say it's been received, but with the intermediaries, you don't."

Late filer, small, 1-49 workers on return

It was also common for intermediaries to be unsure whether the reports they had been submitting were meeting HMRC's standards and criteria and so feedback on reports was requested. It was said feedback would provide reassurance both that 1) the submission met the required standards, and so they would not be penalised and that 2) HMRC was making use of the information, as some intermediaries were sceptical about whether this was the case. This links to the lack of awareness of the purpose of reporting.

"None of us were 100% certain on what we were doing and there is no one coming back and saying 'I've gone through it you just need to tweak these areas' and I think that's what we all need."

Late filer, large, 250+ workers on return

Improving the user experience

It was requested that the process of uploading be less prone to error messages and glitches. This would mean that if data was not formatted in exactly the right way, it would still be acceptable, and that the form could accommodate all types of worker, including those with overseas home addresses. Intermediaries also believed they had identified several bugs (detailed in 'Issues with HMRC systems' in chapter four) relating to the formatting of text which were unnecessarily causing error messages upon upload.

Intermediaries had also found that the Gov.uk website required manual searching through pages, and requested that it have a more effective search function, which functioned more like a web browser search tool.

Appendices

Appendix A: sampling and research methodology information

Details of the sampling approach

The research looked at the experiences of intermediaries who had either filed on-time, late and not at all, as such, HMRC provided three samples corresponding to each filer groups. Ipsos MORI recruited 20 intermediaries from each sample to ensure that the three filer types were well represented in the research.

Secondary criteria were also set to ensure that a range of intermediaries were included in the study. These criteria included size of business (large, medium and small), location (East of England, Greater London and the North West), sector (a mix across different industries) and use of an agent (those who did use one, and those who did not). Recruiting a range of intermediaries with different circumstances ensured that any potential bias caused by the size, location or sector of the business or the use of an agent would be addressed. The sampling points selected were intended to provide a varied sample of intermediaries from disparate geographical areas, which were also typified by different levels of urbanisation.

The on-time filer and the late filer samples were drawn from HMRC's employment intermediaries' records, which comprised of those who had either reported on time or late during the April 2015 reporting period, respectively. The non-filer sample was drawn from HMRC's VAT records, comprising of businesses identified as recruitment agencies. It was accepted that this sample would contain both genuine non-filers and those who were out of scope for the research, as HMRC did not have specific details of those who were eligible but had not submitted a report.

Through the process of recruitment, Ipsos MORI was able to screen out any ineligible intermediaries from the non-filers sample. The qualifying criteria used were:

- They held a contract with the end client to supply workers
- They were not operating PAYE or National Insurance on their workers via Real Time Information

Reasons for exclusion included; only having one eligible worker at the business (the minimum requirement is two); providing workers to end clients for a commission (rather than holding a contract); not having any eligible workers (i.e. all workers paid via PAYE). All others who met the qualifying criteria were assumed to be eligible for the research and were recruited for interview.

At interview, it became apparent that among the non-filers there were intermediaries who had experience of filing in subsequent quarters. It was decided that this reporting behaviour should be noted, so that findings presented in the report give a better representation of how intermediaries had acted based on their reporting outcome, rather than the sample from which they were drawn. Quote attributions are also made on this basis, rather than being based on the original sample type.

Sample breakdown

Below is a breakdown of the sample by the key criteria used in the research.

Table 1.1 – Adjusted sample table reflecting actual reporting behaviour of intermediaries

	Reporter type	On-time	Late	Non
		27	26	7
Interview method	Face-to-face	20	13	-
	Telephone	7	13	7
Area	East	9	8	4
	North West	9	8	2
	South East	9	10	1
Size*	Small (1-49)	12	15	7
	Medium (50-249)	10	8	
	Large (250+)	5	3	-

*(refers to number of workers on return for on-time and late filers, and the size of business for non-filers)

Methodology

Ipsos MORI conducted 60 in-depth interviews with employment intermediaries who were eligible to submit a report during the first reporting period in April 2015. Of these interviews, 33 were face-to-face and 27 were via telephone. Interviews were conducted with the person in the business responsible for decision-making and submission of the reports. In smaller businesses this tended to be the business owner, in larger companies this tended to be the person with responsibility for financial matters or compliance, such as financial directors, payroll managers or heads of compliance.

The research looked at the experiences of three groups of intermediaries: on-time filers, late filers and non-filers. Ipsos MORI recruited 20 intermediaries from each reporter group. Secondary criteria were set to ensure that a range of intermediaries were included in the study. These criteria included size of business (large, medium and small), location (East of England, Greater London and the North West), sector (a mix across different industries) and use of an agent (those who did use one, and those who did not). The achieved sample is provided in the table below.

HMRC provided three samples corresponding to each reporter group. The on-time filer and the late filer samples were drawn from HMRC's employment intermediary records, which comprised those who had reported on time or late during the April 2015 reporting period, respectively. No equivalent sampling frame exists for non-filers; therefore a sample of businesses listed as employment agencies in HMRC's VAT records was drawn as this would contain businesses eligible for the requirement. It was accepted that this sample would contain both genuine non-filers and those who were out of scope for the research. As such, all leads were screened using a questionnaire at the point of recruitment to determine they were eligible for the new requirement. Ipsos MORI used two key criteria to establish whether each employment intermediary was eligible for interview: firstly, that they held a contract with an engager and, secondly, they were not operating PAYE/NI on their workers. The non-filer sample fell into three groups – those who were eligible for the requirement, those who were not, and those who had previously reported. All those who were eligible and happy to take part were included in the research.

A qualitative approach was adopted to allow interviewers to build a rapport and encourage intermediaries to respond openly to questions about their reporting behaviour – this was especially important for the non-filer sample. Interviews were undertaken between 8th January and 5th February 2016 and were 45-60 minutes in length. The time at which the interviews were conducted coincided with the third report period, as such there were business who had submitted reports in multiple periods and so had greater experience of the process. Interviews were guided by a semi-structured topic guide supported by stimulus materials. The topic guide was designed to reflect the behavioural Theoretical Domains Framework (TDF) ensuring the research considered a full range of behavioural determinant including, knowledge; skills; social influence; environmental context and resources; beliefs about capabilities; and beliefs about consequences.

The data was analysed using an inductive approach, whereby interview recordings were summarised under thematic headings and analysed for themes, patterns and sub-group differences and similarities. Qualitative research is used to map the range and diversity of different type of experiences rather than indicate the prevalence of any one particular experience; as such, numerical language has not been used in this report.

At interview, it became apparent that among the non-filers there were intermediaries who had experience of filing in subsequent quarters. It was decided that this reporting behaviour should be noted, so that findings presented in the report give a better representation of how intermediaries had acted based on their reporting outcome, rather than the sample from which they were drawn. Quote attributions are also made on this basis, rather than being based on the original sample type.

Ethical considerations

This research was designed and carried out in accordance with the Market Research Society's code of conduct and ethical practice guidelines[7]. In handling the sample data, Ipsos MORI ensured that all sensitive information was held in a secure file location, and encrypted at all times. When required, Ipsos MORI and HMRC used the Government's secure shared workspace to transfer these files. Once this data was no longer required for research purposes, it was securely destroyed. All research data (e.g. audio recordings of interviews, transcripts, and analysis notes) were encrypted; in order to protect

[7] https://www.mrs.org.uk/pdf/mrs%20code%20of%20conduct%202014.pdf.

participant anonymity any identifying information such as names, locations and descriptions have been removed from the final report.

Participants were recruited on the basis of informed consent: they were made aware of the purpose and scope of the research and given the opportunity to opt out. Throughout the interview process itself, participants were again told that they could opt out at any time, and they were under no obligation to respond to any particular questions shout they not want to.

The research materials were designed with participant welfare in mind. The potentially sensitive discussion with non-filers around reporting behaviour was taken into consideration, and the discussion guide reflected this. Alongside this, all interviewers were fully briefed prior to interview, and alerted to the possible sensitivities of the research.

The analysis of the data was conducted by a team of researchers at Ipsos MORI. Each member of the team oversaw the entire dataset, to ensure that data collected by one researcher was analysed by another. This promoted a greater level of impartiality and encouraged a more balanced and consideration understanding of the research findings.

Appendix B: Characteristics affecting filing

The core characteristics found to be affecting the likelihood of filing (or filing on time) are outlined below:

On-time filers

- More likely to have dedicated staff, who had time to work reporting and who had relevant experience and skills.
- Staff would be driven to report on time as non-compliance would reflect badly on them personally, and as a representative of the company.
- Worked with proactive umbrella companies, who helped with compilation of information.
- Fewer contractors could make reporting easier, but did not guarantee on-time submission.

Late filers

- Intermediaries who underestimated the time required to compile information.
- Less connected businesses had not heard in time. Such business were less sure of what to do and so had to spend time on research.
- Less sophisticated IT systems lead to more manual work, increasing the burden and time involved.
- Intermediaries who had to chase uncooperative contractors and umbrella companies.
- Those who struggled with HMRC forms and website.

Non-filers

- Companies who were unaware of the requirement.
- Companies who misunderstood the requirement; including those who thought it began a year later, those who thought it didn't apply to them, and those who thought responsibility lay elsewhere.
- No evidence of active non-filing; however, mention of weighing up penalties against other business priorities.

Appendix C: Theoretical domains framework

In order to understand the underlying drivers of businesses' reporting behaviour, we drew on a widely used behavioural model, the Theoretical Domains Framework (TDF)[8] to inform the discussions. TDF is a synthesised framework, developed from 33 theories relating to behaviour change. TDF is a more comprehensive version of Michie et al's COM-B model[9] and is intended to capture the full complement of influences on behaviour – both emotional and rational, and internal and external. By using TDF throughout the project, Ipsos MORI were able to create a discussion guide which incorporated questions and prompts which would reveal the determinants that impacted on intermediaries' reporting outcomes, going beyond attitudes and intentions to also include capability, motivation and environmental influences.
In this study, not all of the domains were covered as some were not applicable or were not relevant, this included: memory, attention and decision processes; optimism; reinforcement; intentions; behaviour regulation; beliefs about capabilities.

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Table 1 Mapping COM_B components to TDF domains

COM-B Component		TDF domain
Capability	Psychological	Knowledge
		Skills
	Physical	Skills
Opportunity	Social	Social influences
	Physical	Environmental context and resources
Motivation	Reflective	Social/professional role and identity
		Beliefs about consequences
		Goals
	Automatic	Social/professional role and identity
		Emotion

[8] http://www.implementationscience.com/content/pdf/1748-5908-7-37.pdf
[9] http://www.implementationscience.com/content/pdf/1748-5908-6-42.pdf

Appendix D – Research Materials

Discussion guide

<table>
<tr><th>Timings</th><th>Key Questions</th></tr>
<tr><td></td><td>

1. Introduction

- **Thank participant for taking part; introduce self, Ipsos MORI**
- **Explain purpose of discussion:** to understand their views on HMRC's new reporting requirements for employment intermediaries (employment agencies). Reassure that if they are not familiar with the requirements, this will be explained
- **Confidentiality**: reassure that all responses are anonymous and that no identifying information will be passed onto HMRC or anyone else
- **Role of Ipsos MORI** – independent research organisation (i.e. independent of government), we adhere to MRS code of conduct
- **Length**: approx. 50-60 minutes (depending on employer request and mode)
- **Any questions**?
- **Get permission to digitally record** – transcribe for quotes, no detailed attribution

</td></tr>
<tr><td>5 mins</td><td>

2. Background

- Explore details of organisation
  - Nature of work
  - Size of business
  - Activities in terms of supplying workers to employers : check PAYE status of workers supplied/ that contract is held by the business
  - Type/number of workers
- Explore respondent's role in the organisation; time in role; responsibility relating to new reporting requirement ; relevant training/experience
- Briefly explore who else in business is also involved in meeting the requirements – decision making, process

</td></tr>
<tr><td>5 mins</td><td>

3. Experiences of meeting other tax/information obligations

Moderator to explain that before discussing the new regulations for employment intermediaries (employment agencies), we would like to briefly find out about their experiences of meeting other tax /information requirements

- *(Briefly)* **outline other tax/information requirements** they are required to meet – provide brief examples
  - How are these managed; how are decisions made; by whom
- **How confident** are they in meeting these requirements; reasons for this - **probe:** relationship with HMRC; importance placed on keeping on top of obligations; knowledge gaps,
- **Any problems** meeting obligations/providing information; reasons for this – provide examples (including completing specific tasks)

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<tr><th>Timings</th><th>Key Questions</th></tr>
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Explore where they usually gain information on tax matters; how keep on top of tax matters; how important is this to them; any problems receiving information they need (personally or as company); reasons for this
Whether they use an agent; for what tasks; nature of use for advice or completing returns – probe: importance of information/advice provided by agent; reasons for this
Briefly explore organisation’s use of digital/online services to comply with requirements: probe – which obligations do they use it for; which ones do they not use it for, reasons for this; explore awareness of digital services, and ease/confidence of use

</td></tr>
<tr><td>15 mins</td><td>
<h2>4. <u>Awareness of the new requirement and penalty regime</u></h2>
Moderator to explain that there are new requirements for employment intermediaries (employment agencies) to submit information returns about their workers to HMRC. Explain this is not a test we just want to understand what/how much business know. Use <u>stimulus A</u> to support discussion, if required.

Explore whether they have heard of the new requirements
Ask respondents to tell you about the requirements and the penalty regime in their own words (spontaneously)

Prompt on requirements (as necessary using information in box): type of businesses that should file; reasons they don’t need to file; what information they need to provide; how they file; by when; other
Prompt on penalty regime (as necessary using information in box): what receive penalty for; level of penalty; how that increases

Explore anything that is unclear (in terms of requirement or penalty regime) – what they are/are not aware of; any points of confusion; reasons for this
Explore how they became aware; sources of information; any problems

<u>Stimulus A:</u> If unaware, moderator to read out description of the new requirement and penalty regime:
Employment intermediaries are employment agencies who supply workers to businesses. New regulations came into force in April 2015 requiring these agencies to provide electronic information returns to HMRC outlining details of their workers and their work engagements.
Employment agencies that hold a contract to supply workers to an end client must tell HM Revenue and Customs about all workers they supply to the end client where they do not operate Pay As You Earn (PAYE) on payments for the workers’ services.
The information return must be sent to HMRC at least once every 3 months.
There are penalties for late or incorrect filing: penalties are tiered increasing from £250 for the first offence, to £1000 for third or later offences. In some cases additional daily penalties will apply for those who consistently fail to meet requirements. There is an appeal process for these new penalties.
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<table>
<tr><th>Timings</th><th>Key Questions</th></tr>
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Moderator to recap/explain on the details of the new requirement and penalty regime as outlined above, using Employer Intermediary Diagram if face to face.

- **Explore initial thoughts on the new requirements and penalty regime** – what first thought when heard about the new regime
  - Consider **any initial concerns/barriers** to meeting the requirements – provide details – **probe:** for organisation/personally; reasons for this
  - Explore whether any **discussions** took place/would need to take place internally (formal/informal);any decisions to be made – provide details and explanations
  - Explore any **additional information** they need; where would they get this; reasons for this

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<tr><td>15 mins</td><td>

5. Behaviour and decision-making in relation to meeting the requirement

Moderator to explore experiences or anticipated experiences of meeting the requirement. For example, how businesses found meeting the requirement or how they react to the idea of meeting these requirements. Draw on issues raised in earlier sections (particularly section 3) to probe and prompt respondents and use stimulus tools to show each stage of the requirement (stimulus B) and to support decision with non-filers (stimulus C).

- **Outline details of activities undertaken/required when submitting returns** – **probe:** enrolling online, preparation of information, liaising with any other agencies/suppliers, developing/generating return, submitting the return online (software used), meeting deadlines
  - How easy or difficult is it for the business to keep records of every worker they supply to an end client
- Explore any decision-making in relation to submitting the return/tasks outlined – **probe:** who is involved in decision-making; outline issues considered/discussions - provide examples
- **Spontaneously explore views on the process of submitting a return**
  - Explore any **barriers** to providing a return; reasons for barriers
    - **Probe:** knowledge/awareness of requirement; skills/experience in business; practical issues (gathering records on workers); internal systems; internal resource, time, other
    - Software used / submitting the return online
    - What is the main barrier
    - **Tool:** Use scenario C exercise for non-filers (where required)
    - What types of barriers they think other businesses like them might face
    - Explore any **problems** encountered; reasons for this – provide examples
  - Explore what would / does **facilitate** submitting a return; what would make it easier / help
    - **Probe:** knowledge/awareness of requirement; skills/experience in business; internal systems; internal resource, time, other
    - Cooperation from other parties (workers, end client, other intermediaries)
    - Support / guidance from HMRC, other
    - Software used / submitting the return online
  - Explore **how they feel about meeting the requirement** and the penalty regime overall; reasons for this
  - Explore any **support needed**

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Timings	Key Questions
	• What **factors underpin decisions** about whether or not to file; when to file; other ○ Are there any issues that might make other businesses file late or incorrect returns – provide examples; reasons for this
15 mins	**6. <u>The impact of the penalty regime on behaviour</u>** • Briefly recap on awareness of penalty regime (refer to section 4) <u>Refer to stimulus D as required and as prompt</u> • What did/do they think the **consequences of not meeting requirements** would be ○ What did/do they think would happen if they filed late or incorrectly – provide example ○ How likely do they think businesses are to be fined; reasons for this • **To what extent was/would the penalty regime be considered** when thinking about filing the return; reasons for this ○ Whether any discussions had taken place about the penalties – provide details of discussions • Explore **how far the penalty regime impacted/would impact on decision-making** or behaviour when filing a return– explore spontaneous thoughts on this ○ **Probe** - reasons why it does/does not impact – provide examples • Explore any **specific elements of the penalty regime** that impact on decision-making or behaviour (refer to stimulus as necessary) ○ **Prompt on:** amount of penalty in each case; differing penalties for number of offences - increasing from first offence; potential frequency of fine and possibility to receive daily fines, other **– refer to penalty regime stimulus D to cover different elements of penalty regime:** ○ £250 - first offence; £500 - second offence; £1,000 - third and later offences; daily penalties for continued non-reporting. • Consider whether **penalties are weighed up against other factors** ○ How are decisions/judgements made in relation to this; reasons for this – provide examples of how decisions are weighed up ○ <u>**Tool:** Use scenario exercise (Stimulus E) to consider how businesses weigh up penalties against other factors (where required)</u> • Explore emotional reaction if the business had received a fine ○ **Probe:** how would it reflect on them personally and professionally • **How far the penalty regime for this new requirements had an impact** (would impact) on behaviour and likely impact in future – provide reasons • Explore how (any) <u>new</u> awareness/understanding of the penalty regime might impact their future filing • Explore **attitudes to penalties generally** (not just this regime); how they feel about penalties • How they would feel if they received a fine/business would respond • Consider **how they think businesses respond to penalties**; how much of an impact do penalties have on behaviour / attitudes; reasons for this – why it would/would not change behaviour / attitudes ○ Whether the impact is likely to differ by type of penalty or type of requirement – **probe:** information return versus tax obligation

Timings	Key Questions
	○ Provide any examples of when penalties regimes have changed/not changed their behaviour / attitudes ○ Whether received any penalties in the past; how this impacted on behaviour / attitudes
5 mins	**7. Summary and wrap up** • What are the key factors impacting their behaviour • Overall views on requirement to file • Overall views on penalty regime ○ How far does the penalty regime impact on behaviour and reasons for this • What would be their final message to pass back to HMRC on this topic
	CLOSE AND THANK

Stimulus B: Reporting requirements

Enrolling on the online service

HMRC have an online service for you to upload and send your reports. Once you have enrolled onto the service, you can upload as many reports as you need to throughout the reporting period. You can decide how frequently you upload and send your reports, as long as they are sent at least every quarter.

Collecting the information for the report

Reports to HMRC must include:

- The worker's personal details, (including National Insurance number – or, if they don't have one, their date of birth and gender)
- Details of the engagement; including start date and the amount paid for the worker's services
- You must also provide a reason why you or whoever has the contract with the worker didn't operate PAYE on the worker's payments. There is a multiple choice of reasons. It may be because:
  - They are a self-employed contractor (like a sole trader, or from a partnership or a limited liability partnership).
  - They are from a limited company (including personal service companies) in which case, the name and address of the limited company must also be included.
  - It is a non-UK engagement for a worker supplied from a company, partnership or person from outside the UK.
  - Another party may operate Pay As You Earn (PAYE) on the worker's payments.

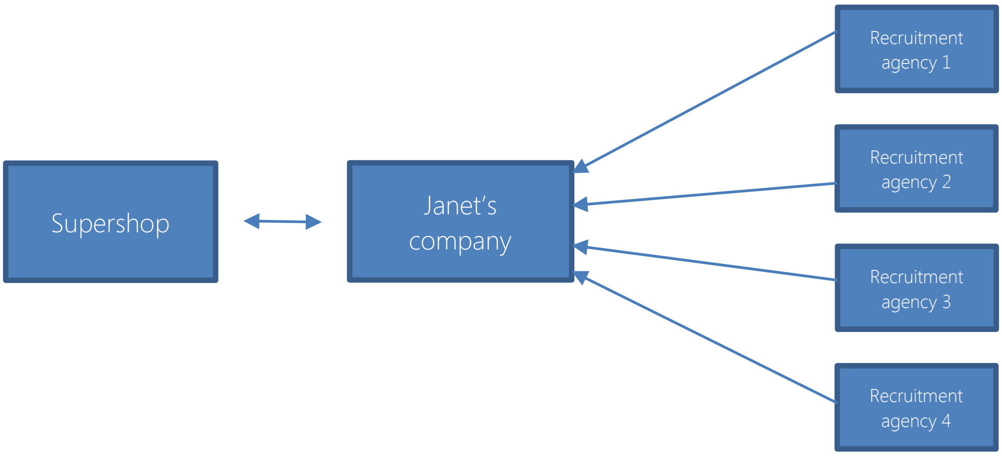
Submitting the report to deadline

You must send HMRC your report, or reports, at least ever quarter. If you miss the reporting period's deadline or you may receive a penalty. The deadline is one calendar month from the end of the quarterly reporting period. For example, for the reporting period 6 April to 5 July, the deadline is 5 August.

Stimulus C: Meeting the requirement scenarios

Supplying workers to 'Supershop' at Christmas

Janet runs an employment agency. She has a contract to supply 'Supershop' with 100 temporary workers to help in the January sales. Janet will source the temporary workers from four other recruitment agencies. As Janet's company has the contract with 'Supershop', which is the end client, she has to report to HMRC. She is relying on the four recruitment agencies to supply the necessary information about the workers in time to meet HMRC's deadline. Janet also needs to report how much 'Supershop' paid for each worker's services and the exact start and end dates of their engagement.



- **What kinds of issues might Janet face?**
  - For example; getting information from the agencies/'Supershop'; impact on business relationships, other

Contractors in the IT industry

Andrew runs a mid-sized employment agency. He has numerous contracts to supply different IT contractors to several different companies. He tends to supply individual workers who are self-employed or run their own personal service company. To report to HMRC, he requires information on worker engagements, including start and end dates, and amounts paid. For each worker he needs to report workers details including, National Insurance numbers (or date of birth and gender for workers that don't have this). He also requires Unique Taxpayer References (UTRs) for those that are self-employed or in a partnership.

- **What kinds of issues might Andrew face?**
  - For example; getting information from the contractors/end clients; impact on business relationships, other

Stimulus D: Penalties

If your report is late, incomplete or incorrect you may be charged a penalty. These are based on the number of offences in a 12-month period. The penalties are:

- £250 - first offence
- £500 - second offence
- £1,000 - third and later offences

If there are 12 months or more between offences, you will only be charged £250 for the first offence in the new 12-month period.

Where there is continued failure to send reports or send reports late you may receive a penalty every day that you don't send a report. There is an appeal process for these new penalties.

For incomplete and incorrect reports, manual penalties may apply on a case-by-case basis.

Stimulus E: Trade off scenarios

Small business struggling to stay up-to-date

Claudia runs a small employment intermediary business supplying workers in the education sector. Her business has a good relationship with HMRC, and she has up until now managed to be compliant with all tax requirements. The business is however currently very busy, and Claudia finds that she is having to prioritise running the business over ensuring she is compliant with HMRC's new rules. She hopes the new requirements don't apply to her, although she hasn't really looked into it yet. She imagines that a business as small as hers is probably "below the radar" of HMRC, and she should be fine.

- **What do you think of Claudia's approach to the new requirements?**
- **To what extent can you relate to Claudia's approach to the new requirements?**
- **What could HMRC do to help Claudia?**

Large agency trading off fines against business-as-usual

Bobby runs a large, successful employment intermediary business supplying workers to the security industry. He estimates that gathering the information he is required to submit to HMRC will be very time-intensive. He also believes that some of the workers he supplies could be classed as 'falsely self-employed', and does not want HMRC investigating. He reasons that rather than submit an information return he will wait to see if HMRC ever look into his case. A first fine of £250 is not a lot compared to the turnover of Bobby's businesses, and only once that's happened will he look into complying.

- **What do you think of Bobby's approach to the new requirements?**
- **What should HMRC do to encourage Bobby to file?**

For more information

Ipsos MORI
3 Thomas More Square
London
E1W 1YW

t: +44 (0)20 3059 5000

www.ipsos-mori.com
http://twitter.com/IpsosMORI

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