

Long-term effects of the off-payroll working reform: education sites interim report

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Glossary

Agency: Used here to refer to an organisation which supplies contractors to clients. If a client determines the off-payroll working rules apply then they, or an agency in the supply chain, will be responsible for deducting and paying to HMRC the Income Tax and National Insurance contributions (NICs) due.

Central body: Public authorities can either be 'central bodies' or 'individual sites'. 'Central body' is used here to refer to survey respondents at organisations where the off-payroll working rules administration is handled for many sites. This report does not include findings for central bodies, but the intention is to include them in later research.

Client: Used here to refer to the organisation for which a contractor is supplying services.

Off-payroll contractor (OPC): An individual who provides services to a client and is not an employee. They may work through their own limited company or may work through a different structure (for example an umbrella company, an agency, or as a sole trader).

Personal service company (PSC): A limited company which the worker typically controls and has some interest in, and supplies their services through.

Public authority: The off-payroll working reform of April 2017 applies to public authorities. Public authorities are bodies that are defined as public authorities by the Freedom of Information Act 2000 or Scottish public authorities by the Freedom of Information (Scotland) Act 2002. Broadly, this includes government departments, including their executive agencies; companies owned or controlled by the public sector; schools or universities; local authorities; and parts of the National Health Service. The rules also apply to the UK Parliament, the National Assembly for Wales Commission, and the Northern Ireland Assembly Commission.

Site: Public authorities can either be 'central bodies' or 'individual sites'. 'Site' is used here to refer to survey respondents at establishments where the off-payroll working rules administration is handled for that site only.

Umbrella: There is no statutory definition of an 'umbrella company', although it is generally accepted that an umbrella company is a company that employs temporary workers (contractors) who work at different end clients' premises. Umbrella companies do not source work. Typically the umbrella [company] will enter into a contract with a recruitment agency that will source work from end clients.

1 Introduction

- 1.1 The off-payroll working rules, commonly known as IR35, were first introduced in April 2000. The rules are designed to ensure individuals working like employees but through their own limited company (often known as a 'personal service company' or 'PSC'), or other intermediary, pay broadly the same Income Tax and National Insurance contributions (NICs) as individuals who are directly employed.
- 1.2 The Finance Act 2017 introduced reforms to how the off-payroll working rules operate in the public sector from 6 April 2017. When the rules were introduced in 2000, it was the responsibility of the contractor's own PSC to consider the off-payroll working rules and determine whether an engagement was inside or outside the rules (employed or self-employed for tax purposes) and deduct the relevant Income Tax and NICs. The 2017 reform moved the responsibility for operating the rules to the client organisation, if the client organisation is a public authority. Where a public authority engages an individual working through their own PSC or other intermediary, the public authority is now responsible for determining whether the rules apply and whether the contractor is employed for tax purposes for that particular engagement. If an engagement is determined to be inside the rules, and the public authority directly engages the contractor's PSC, the public authority is required to deduct the relevant Income Tax and NICs before making any payments. If the contractor is engaged through an agency, the public authority will pass their decision to the agency they engage and it is the agency that pays the contractor's fees that is required to deduct the relevant Income Tax and NICs before making any payments. The client organisation population in scope of the reform includes local government, the NHS, police forces, schools and higher education institutions, and government departments including devolved administrations and arm's length bodies.
- 1.3 The public sector reform was introduced to help improve compliance with the rules. Contractors affected by the reform could in principle continue to work in the same way or change the way they work. If contractors continued to work in the same way and were fully compliant with the existing rules, they would have felt little impact, and a reduction in their admin burdens. If contractors changed the way they work, they could in principle become an employee of the public authority or an employment agency, move to work through an umbrella company, or leave their role (potentially for a different self-employed role in the public sector, a role in the private sector, or stop working altogether). It is possible that some contractors may have sought increases in their pay rates to make up for the increased Income Tax and NICs, or that organisations may have tried to reduce rates to offset the costs of the reform, or that there has been no change.
- 1.4 Research by IFF Research and Frontier Economics¹, published in May 2018, concluded that the immediate impact of the April 2017 reform in the public sector had led to only minimal impacts on the number of contractors engaged on- or off-payroll. However, some impacts on the ability to fill vacancies and increases in contractor rates were reported by a minority of public authorities. Throughout this report, the findings of the previous study are referred to as the "2017 study" as the fieldwork was carried out in 2017.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/704931/Off-Payroll_Reform_in_the_Public_Sector.pdf

- 1.5 In 2020, IFF Research and Frontier Economics were commissioned by HMRC to gather evidence of the longer-term effects of the 2017 off-payroll working reform, and to understand what further support public authorities might need for the off-payroll working rules. The study comes in preparation for the off-payroll working reform to the private sector in April 2021, alongside further changes for the public sector, which will require public authorities to communicate employment status determinations with contractors and agencies via a Status Determination Statement (SDS); keep detailed records of their status determinations; and have processes in place for dealing with any disagreements that arise from providing these determinations.
- 1.6 Mirroring the process used in the 2017 study, public authorities were classified through the survey as either central bodies or individual sites. Central bodies are public authorities that handle off-payroll administration for multiple other sites. Individual sites are those that handle off-payroll administration for their site only. The current research looks to build on the 2017 study where possible, by drawing comparisons and exploring some subjects in greater detail.
- 1.7 The current report was originally intended to cover findings from public authorities across three main sectors: education; health and social work; and public administration and defence. However, to allow public sector organisations, in particular the NHS, to focus on responding to the COVID-19 pandemic, the 2020 study was paused midway through the designated fieldwork period in both the quantitative and qualitative phases of the study. Due to low response rates, particularly in the healthcare and public administration sectors, only findings from the education sector are provided here. Furthermore, too few central bodies were recruited during the reduced fieldwork period, meaning that only findings from individual sites are reported here.
- 1.8 This short report therefore outlines the key interim findings based on 51 survey interviews with individual sites for public authorities in the education sector, and qualitative follow-up interviews with six of these sites. Fieldwork is expected to recommence later in 2021 when there is less pressure on public authorities, after which a full-report will be produced. This will include health and social work, public administration and defence organisations, and will include impacts on both central bodies and individual sites.
- 1.9 Overall, these latest results show that the 2017 reform had very little impact on education sites over the longer-term, reinforcing the findings from the 2017 study. There is little indication overall that sites are reducing their engagement with PSCs as a result of the reform, and no other major issues were found following implementation of the reforms.

2 Sampling and methodology

2.1 The research comprised of two phases:

- A quantitative survey of public authorities that had recent engagement with off-payroll contractors;
- Qualitative follow-up interviews with survey respondents whose responses indicated that they had been affected by the reform.

2.2 To obtain contact details for relevant organisations, a stratified random sample was drawn from a representative sample frame of organisations with a legal status of either “public corp/nationalised body” or “local government”, provided by HMRC. Larger organisations with more employees were oversampled in order to maximise the chance of reaching central bodies, which are generally larger, and also because smaller organisations are less likely to deal with large numbers of off-payroll contractors. The resulting distribution of organisations should be broadly representative of the population of education sites impacted by the off-payroll reform.

2.3 During the survey, the sample was screened to ensure that the public authorities interviewed had engaged off-payroll contractors via PSCs in the previous financial year (1 April 2019 to 31 March 2020). In the 2017 study, the sample was screened to ensure the public authorities had engaged any off-payroll contractors in the previous financial year. The reason for the change was to ensure that the reform always applied to the public authorities surveyed and that respondents could talk knowledgeably about the reform and the impact on workforce structures. This also ensured the respondents could provide insight into ongoing operating costs and support needs, as they would have experience complying with the rules. It is worth noting that some public authorities may have engaged off-payroll contractors via PSCs at some point in the previous financial year, but in March 2020 they were no longer engaging any.

2.4 Prior to the survey, sampled public authorities were sent an advance letter, which introduced the research and provided an opportunity to opt out. The letter also included a datasheet to help respondents collate volumetric data required in the survey.

2.5 In total 51 survey interviews were conducted via computer-assisted telephone interviewing (CATI) with education sites between September and November 2020, before fieldwork was paused due to the COVID-19 pandemic.²

2.6 With respect to the base size of 51 individual sites in the education sector, a degree of caution is needed in interpreting the results because the associated margin of error is relatively large.

² In addition to education sites, a further 30 site interviews were conducted with other public authority sites (18 with public administration and defence sites and 12 with health and social work sites). In addition to this, 28 interviews were conducted with central bodies across the same three sector groups. These have been excluded from the findings of this report due to their low sample sizes, however they will be included in the final report after fieldwork recommences in 2021.

- 2.7 Comparisons are drawn between this study and the 2017 study in this report, where base sizes are large enough to allow this. In both comparisons between studies and commentary on data within this study, only differences that are statistically significant at the 95% confidence level are reported.³
- 2.8 Qualitative follow-up interviews were undertaken with sites that had taken part in the quantitative survey (2020 study) and had provided agreement to IFF to participate in follow-up research. The qualitative interviews sought to complement the survey data by exploring the impact of the reform in greater depth, focusing on cases where survey results indicated public authorities had been particularly impacted by the reform. These telephone interviews lasted around an hour and were with finance professionals at various educational establishments. This included two further education (FE) colleges, a college offering both FE and higher education (HE) courses, one secondary school, and two primary schools.

³ A confidence level of 95% was used as the cut off here, in accordance with typical social research standards.

3 Results

Use of off-payroll contractors

3.1 The survey collected data on the number of employees at education sites, as well as the number of off-payroll contractors working through different structures. The majority of education sites surveyed (82%) had between 50 and 499 employees. The mean number of employees was 473, and the median was 114. Over half of the education sites (55%) engaged fewer than 10 (0–9) off-payroll contractors in March 2020, with one in ten (10%) engaging 50 or more. The mean number of off-payroll contractors engaged in March 2020 by education sites was 22.2, with a median of 8. The mean number of off-payroll contractors engaged via PSCs in March 2020 (either directly or through another intermediary such as an agency) was 9.2, with a median of 3. Further survey results on the use of different workforce structures can be found in the ‘impact on workforce structures’ section.

Roles and skills provided by off-payroll contractors

- 3.2 The use of off-payroll contractors was explored in greater depth in the follow-up interviews. The use and importance of off-payroll contractors varied across the establishments interviewed.
- 3.3 The FE colleges interviewed were larger establishments and engaged a larger number of off-payroll contractors than the schools. They also considered the engagement of off-payroll contractors an important tool to support delivery of high-quality educational services. Roles filled by off-payroll contractors in FE colleges included: guest lecturers and speakers; external examiners and end point assessors; mental health counsellors; technical roles in IT, website management and finance; and sports coaches and referees.
- 3.4 In contrast to FE colleges, schools engaged fewer off-payroll contractors, and were usually engaged due to an ad-hoc need for specialist skills, including roles such as careers advisors, foreign language teachers, educational psychologists, or special educational need (SEN) specialists. Some also mentioned engaging cleaners.

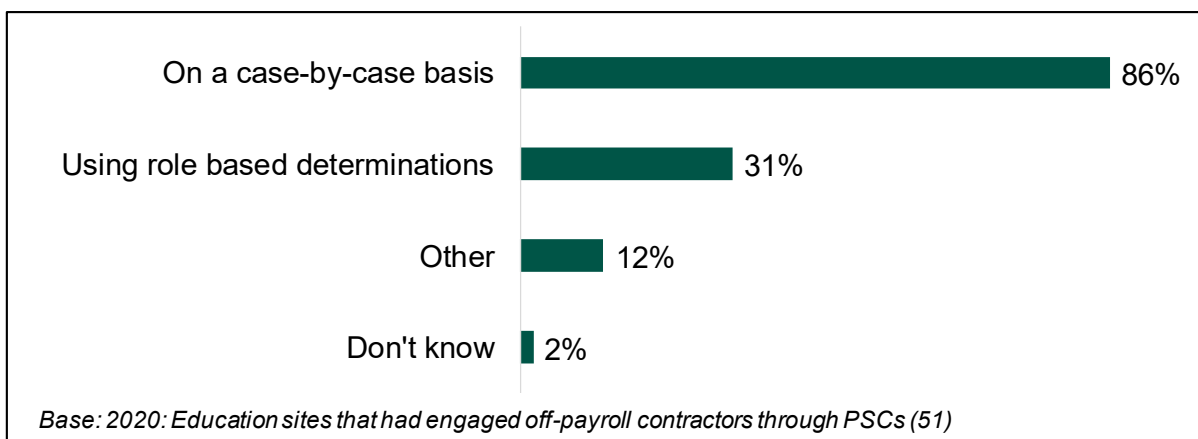
Engaging off-payroll contractors

- 3.5 Respondents in the follow up interviews were asked about how they used off-payroll contractors. Most of the off-payroll contractors were used where a service was required in the short-term, which could not be fulfilled by the existing staff, but where the requirement did not warrant taking on a new employee on a longer-term contract. However, there were a couple of off-payroll contractors used repeatedly over the longer term, such as mental health counsellors or sports referees.
- 3.6 Some respondents in the follow-up interviews said that they preferred to fulfil staffing needs with PAYE staff, or using services where the contractor would clearly not have the potential to be assessed as an employee under the off-payroll working rules. The respondents that said this gave a variety of reasons, including being generally risk averse, concerns about getting status determinations wrong and a lack of understanding of the rules.

Status determinations

3.7 Sites were asked about how they assess contracts in light of the off-payroll working reform. As shown in Figure 3.1, the vast majority of education sites assessed contracts either on a case-by-case basis (86%) or using role-based determinations (31%). None of the respondents in the survey said they made blanket determinations that all their off-payroll contractors either fall inside or outside of the off-payroll working rules.

Figure 3.1 How status determinations are made in the education sector⁴



3.8 As well as covering how status determinations were made, the survey asked whether these determinations were outsourced or not. Around one in eight (12%) said they outsourced their determinations, split evenly between those saying they always outsourced and those saying they only did this sometimes. Organisations that outsource status determinations remain responsible, and liable, for the accuracy of those determinations.

3.9 Follow-up interviews also found that many education sites making status determinations favoured assessing contracts on a case-by-case basis. This was partly due to the low number of engagements that required assessment, but also to reduce the risk of non-compliance.

3.10 The process for making status determinations was typically as follows:

- The requirement to engage an off-payroll contractor is identified, usually by a head of department or programme lead, who then liaises with their finance or accounts department to see whether an assessment is needed for the required role.
- If an assessment is required, the finance department makes the status determination, sometimes with the help of those making the request who are more familiar with the nature of the engagement (one school also mentioned involving the contractor in the status determination process).

⁴ Six sites in “Other” gave a variety of answers that could not be categorised, such as using the CEST tool. Note: respondents were able to select more than one answer to this question, so the percentages will not sum to 100%.

- 3.11 In the follow-up interviews, one FE college reported that they only carried out formal status determinations for larger value contracts, generally anything over £5,000. Smaller value contracts such as sports referees and yoga teachers were incorrectly assumed to automatically fall outside the off-payroll working rules, based on the respondent's understanding of the rules. The respondent was confident that they were complying with the off-payroll rules despite this oversight.
- 3.12 Some education sites interviewed also expressed a lack of confidence and confusion around making status determinations. One site assessed contractors case-by-case but had only ever assessed them as inside the off-payroll working rules, despite feeling unsure as to the correct determination. In one follow-up interview, the respondent said that they did not make assessments at all despite having engaged PSCs. This was clearly an example of non-compliance with the off-payroll working rules.
- 3.13 However, there were those in the follow up-interviews who felt more confident in making status determinations, and making use of HMRC tools:

"Mostly I get the answer I expected, so we don't have too much of an issue."

FE college, 100-249 employees

Sources of advice and guidance used

- 3.14 The survey gathered information about the sources that respondents used for advice and guidance on the off-payroll working rules, as well as how helpful the sources were. Two in five (39%) education sites had sought information, advice or guidance to help them implement changes required to be compliant with the reform in the last 12 months. This was significantly lower than the proportion found in the 2017 study (87%).
- 3.15 Among the 20 respondents that said they had sought information, advice and guidance, the most common source used was HMRC's Check Employment Status for Tax (CEST) tool; 7 out of 20 respondents spontaneously mentioned this. This increased to 71% of all education sites when specifically prompted, similar to levels found in 2017 (73%). More information about the usefulness of the CEST tool can be found in the next section.
- 3.16 Other sources commonly mentioned were Local Authorities (5 respondents), payroll providers (4 respondents). Overall, more than half (55%) of respondents mentioned using some form of HMRC guidance.
- 3.17 The usefulness of different sources of advice, information and guidance was also explored qualitatively. While some respondents felt HMRC's website provided useful background on the reform, others still felt they lacked clarity about how the rules applied and suggested that improved guidance was needed, such as case studies, or "real life examples" of how the off-payroll working rules should be applied. As case studies are already present in the HMRC guidance, this may reflect the lack of engagement some respondents had with the guidance.
- 3.18 Some of the smaller sites mentioned relying on their Local Authorities for information about the reform. For example, one business manager at a secondary school used guidance and instruction via the Personnel Advice Service and breakfast briefings with other schools. While they felt that the guidance was satisfactory, they thought the legislation itself was "unclear" and "complicated":

"Of all of the legislation I've been involved with in the last 25 years this has been the most difficult to get your head around."

Secondary school, 100–249 employees

3.19 The respondents within schools all expressed some difficulties with understanding the reform, though could not offer many concrete details about why.

"I knew I needed to update myself on it and try and find out how we're supposed to do this but it isn't very clear and I'm still not very clear on it."

Secondary school, 50-99 employees

3.20 Some finance professionals also made use of publications and guidance from professional bodies such as the Association of Chartered Certified Accountants (ACCA), as well as their own professional networks, knowledge, and experience.

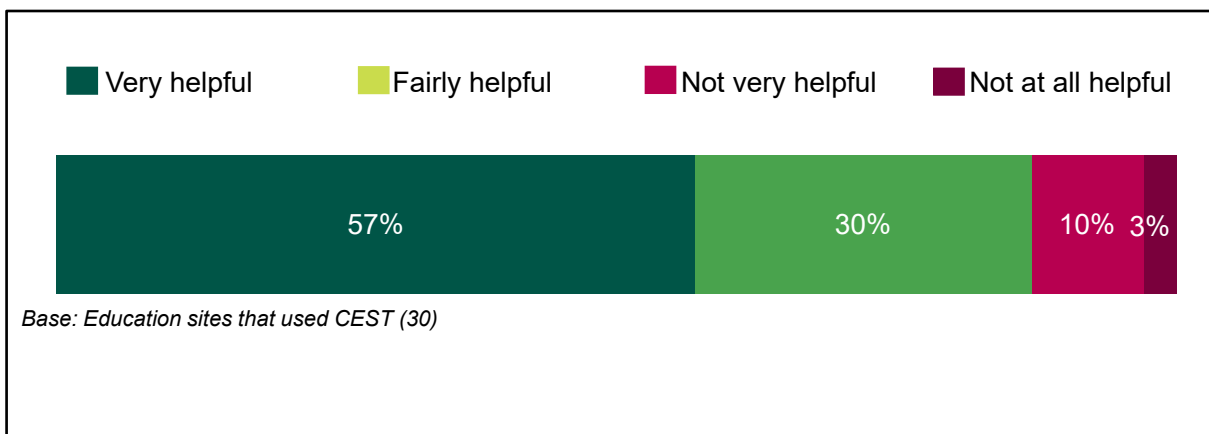
Perceived usefulness of CEST when making status determinations

3.21 The research explored the use of CEST and its accompanying guidance in greater depth, given its importance for making accurate status determinations. As shown in Figure 3.2, a large majority of CEST users felt that the tool was helpful (87% helpful or very helpful; 57% very helpful). This was similar to the proportion that said this in the 2017 study (91%).

3.22 The research also provided an opportunity to assess the impact of recent enhancements to the tool in November 2019. Overall, 43% of sites had used CEST both before and after it was updated, 17% only before it was updated and 12% only after it was updated. Of the 18 respondents that had used CEST both before and after it was updated, more than half (56%) agreed the changes had improved its usefulness, while 11% disagreed.

3.23 New CEST-specific guidance was also launched to accompany the November 2019 changes. Among those that had used CEST since it was updated, 13 out of 23 were aware of the updated guidance and 11 had used the guidance. Of these 11 respondents that had used the new CEST guidance, 10 had found it helpful.

Figure 3.2 How helpful respondents found CEST



3.24 The CEST tool was also explored in greater depth in follow-up interviews. For most sites, CEST was their primary means of making status determinations and therefore many had found it useful. However some drawbacks were mentioned:

- Two respondents had experienced at least one “unable to determine” outcome from using CEST, which they found limited its usefulness. Both respondents that had received “unable to determine” outcomes were referring to the use of CEST before it was updated in 2019.
 - Another respondent felt that the lack of clarity in the questions meant that they could get a different outcome for the same contractor if they tweaked their answers slightly. This caused confusion when different individuals had run the assessment, but also meant CEST could be manipulated to give the desired outcome. However, HMRC do not endorse the results of CEST where incorrect information has been entered.
- 3.25 Those that had used CEST before and after the 2019 update were also asked about their experiences using the tool, in terms of its usefulness and how this had changed since the update. Both sites that this applied to reported that the tool had improved. They felt that the questions were easier to follow and more relevant to them. One also claimed they now had fewer “unable to determine” results.
- 3.26 With regard to further improvements to CEST, some mentioned that they would like the result from the CEST tool to be used as the official status determination, rather than this responsibility ultimately resting with them. One respondent also felt ‘next steps’ information would be useful once the status determination outcome was given.

Disagreements and disputes

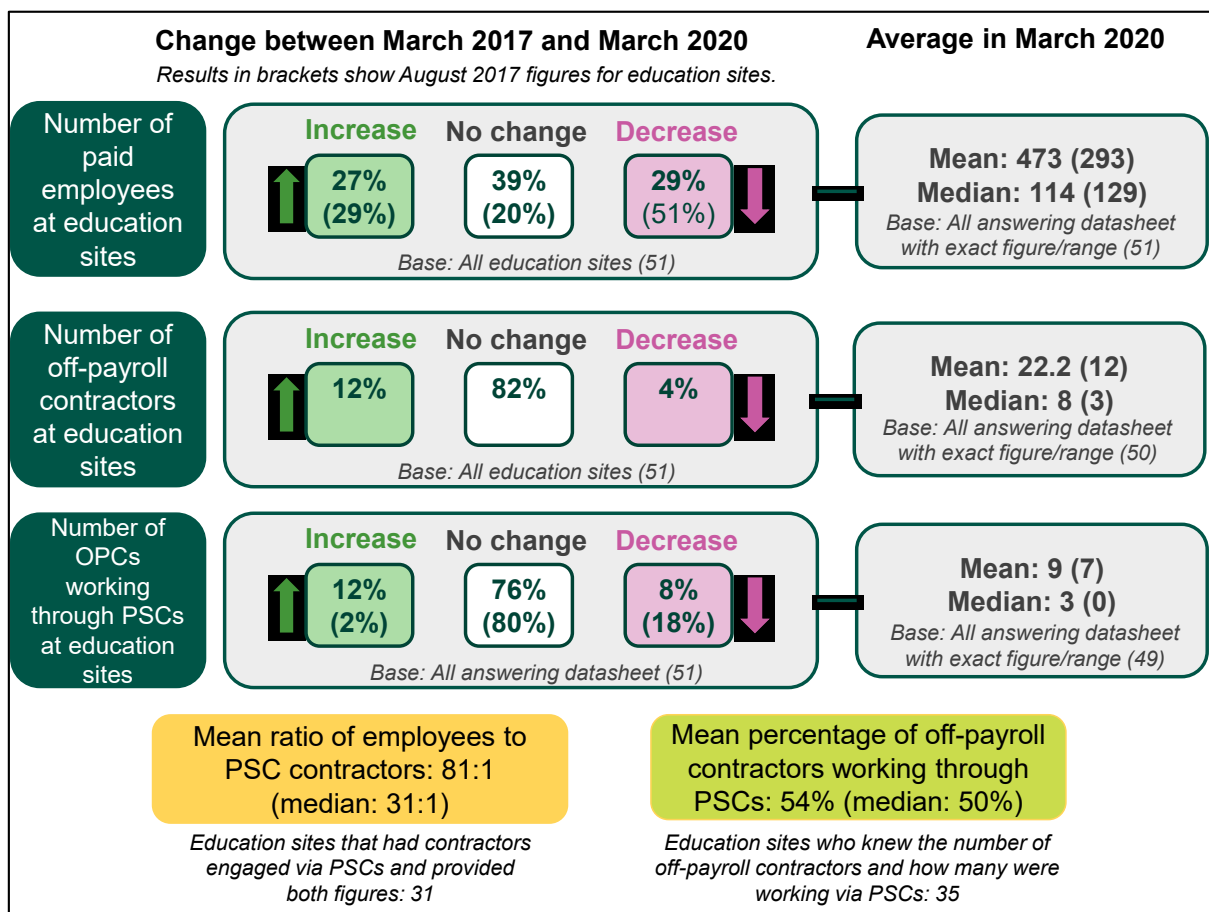
- 3.27 The survey and follow-up interviews also explored disputes with contractors which might occur as a result of contractors disagreeing with status determinations. Eighteen percent of education sites had experienced disputes with contractors or their agencies about whether they fall inside or outside the off-payroll working rules (6 out of 9 cases were around determinations that they fell inside; 1 outside; and 2 a mix of both). These findings were similar to the 2017 study where 22% had disputes.
- 3.28 All sites that took part in the follow-up interviews and had disputes about status determinations reported that these were rare, particularly due to the low numbers of assessments that were made generally. However, many mentioned that there had been instances where off-payroll contractors had disagreed with or queried status determinations.
- 3.29 One site ended a dispute by no longer engaging that contractor and replacing their role with a PAYE employee, although the respondent felt that the reform had little impact on workforce structures overall. One establishment said that although contractors might disagree with determinations, they were ultimately likely to accept the outcome, rather than risk losing out on work.

Impact on workforce structures

- 3.30 A key element of the research was to assess the impact that the off-payroll working reform has had on employment and workforce structures. Prior to interview, sites were asked to collate numeric data on the workforce structures they engaged in March 2020. In the survey they were also asked about the extent that their use of particular workforce structures had changed since March 2017, when the off-payroll working reform was introduced.

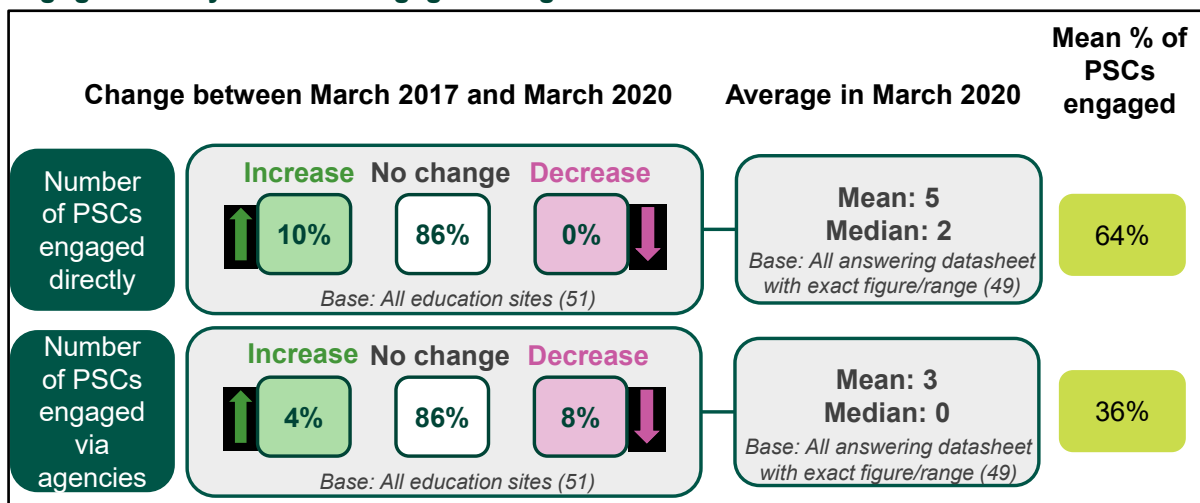
3.31 As Figure 3.3 shows, the vast majority of education sites that engaged off-payroll contractors via PSCs in the financial year 2019/2020 reported no change in the number of off-payroll contractors overall (82%) or the number engaged via PSCs (76%) between March 2017 and March 2020. There was however a net increase in the number of sites engaging off-payroll contractors generally (12% increase vs. 4% decrease). There was also a slight net increase in the number of sites engaging PSC contractors (12% increase vs. 8% decrease). The net increase in PSC contractors found for education sites in 2020 marks a change from the 2017 study, where education sites were much more likely to report a decrease than an increase (18% vs. 2%) between March 2017 and August 2020. However, as mentioned above, the 2020 survey included a screening condition of having engaged off-payroll contractors through a PSC in the last financial year, which was not the case for the 2017 survey. Across the 2020 fieldwork period, 13% of individual sites that started the survey were screened out by this condition.

Figure 3.3 Change in workforce structures between March 2017 and March 2020: Paid employees; all off-payroll contractors; and off-payroll contractors working through PSCs



3.32 Considering two specific types of PSC contractors, those engaged directly and those engaged via agencies, the survey found that the majority of education sites reported no change in the engagement of contractors via these structures between March 2017 and March 2020 (86% in both cases). These results are illustrated in Figure 3.4.

Figure 3.4 Change in workforce structures between March 2017 and March 2020: PSCs engaged directly and PSCs engaged via agencies



3.33 Overall, results show a net increase in the number of sites engaging off-payroll contractors directly (10% increase vs. 0% decrease) and a small net decrease in the number of sites engaging PSCs via employment agencies (4% increase vs. 8% decrease).

3.34 The majority of education sites (70%) engaging off-payroll contractors through PSCs said that none of the contractors they engaged through PSCs fell inside the working rules. A quarter (25%) of education of sites engaging contractors through PSCs said at least some were determined to be inside the off-payroll working rules, while one-in-ten (10%) said that all of them fell inside the rules. The mean percentage of contractors determined to be inside was 18%.

3.35 In addition, the survey found that 2% of education sites had engaged off-payroll contractors via umbrella companies and virtually all (98%) said there had been no change in their engagement of off-payroll contractors via umbrella companies since March 2017.⁵

3.36 All of the follow-up participants who had reported changes to their workforce structures since 2017 in the survey felt that the impact of the off-payroll reform on these structures was negligible, or at least not significant enough for them to have noticed.

3.37 Those who had reported changes to the numbers or proportions of off-payroll contractors and employees felt that these changes were unrelated to the reform. Despite survey results showing no strong change in the use of off-payroll contractors, some respondents in the qualitative interviews reported that their establishments tended to avoid new engagements of off-payroll contractors as much as possible (or that they were encouraged to avoid engaging them by their local authority), due to concerns about making incorrect determinations. While all respondents felt that workforce structures had not been impacted, the instances of negative feeling encountered in the follow-up interviews may be something to watch out for in any future research on the reform.

⁵ There is no statutory definition of an ‘umbrella company’, although it is generally accepted that an umbrella company is a company that employs temporary workers (contractors) who work at different end clients’ premises.

“When we first did this the local authority was very receptive to taking on people as IR35 contractors but they’re definitely not now. If anything, they really don’t want to do it which makes life difficult.”

Secondary school, 100-249 employees

Impacts on rates paid to contractors

3.38 The reform has had little impact on contractor rates. Four in five (79%) education sites that had engaged contractors working via PSCs before the reform, that still worked via this structure post-reform, said the reform had no effect on rates. Just over one in ten (12%) reported an increase in rates, and none of the sites surveyed reported a decrease in rates. Nine percent of sites were unsure of the impact.

3.39 It was similar for those that worked as PSCs prior to the reform but changed their working structure post-reform; the majority (71%) of education sites said the reform had no effect, while 12% reported an increase and 2% said rates had reduced. A further 12% were unsure and 2% said they had not engaged an off-payroll contractor who was engaged via a PSC before the reform and that had since changed their working structure.

3.40 Qualitative follow-up interviews did not cover impacts on rates for off-payroll contractors in great detail as all but one had indicated that these rates had not changed in their survey answers. The one respondent that indicated rates had changed said this was not due to the reform. Qualitatively, respondents suggested that contractor rates in the education sector were generally reasonable, and that a lot of roles shared a known “going-rate” in any case:

“We are pretty clued up about local rates. There are professional associations, and we know what the rates are, so we wouldn’t take them on if they were exorbitant... often we get a discount because FE is hard up.”

FE college, 250–499 employees

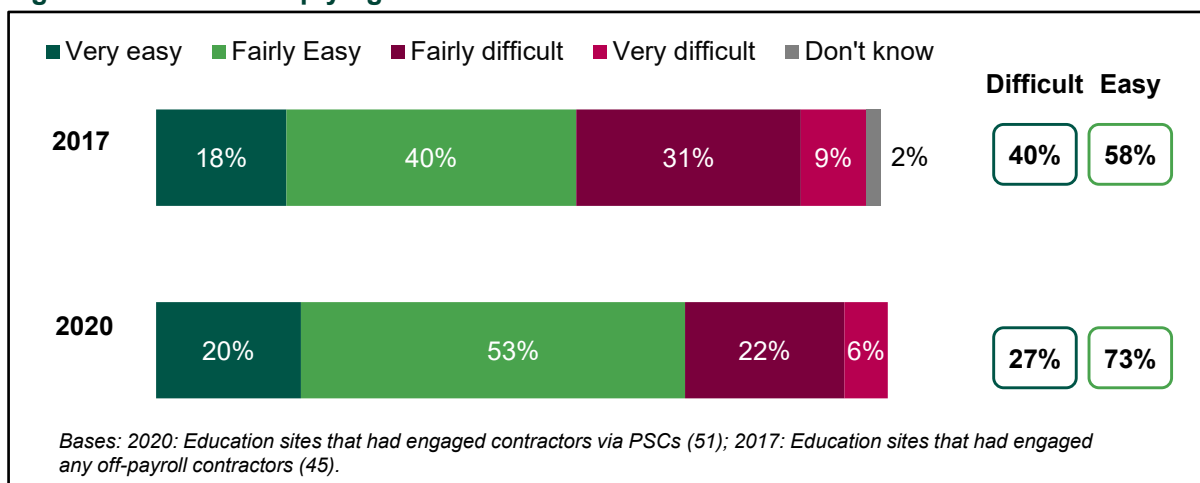
3.41 None of the establishments interviewed had tried to pass on the administrative costs of the reform in reduced rates for contractors, mostly because they felt that the burden from complying with the reform was minimal. Administrative burden is covered in more detail below.

Administration and costs of the off-payroll working reform

3.42 In addition to exploring the impact of the off-payroll working rules on workforce structures and contractor rates, the research also covered how education sites had found the ongoing administration of the off-payroll working reform and the impact this had on operating costs.

3.43 As shown in Figure 3.5, around three-quarters (73%) of education sites said it had been easy to comply with changes to the off-payroll working rules, while just over a quarter (27%) said it had been difficult.

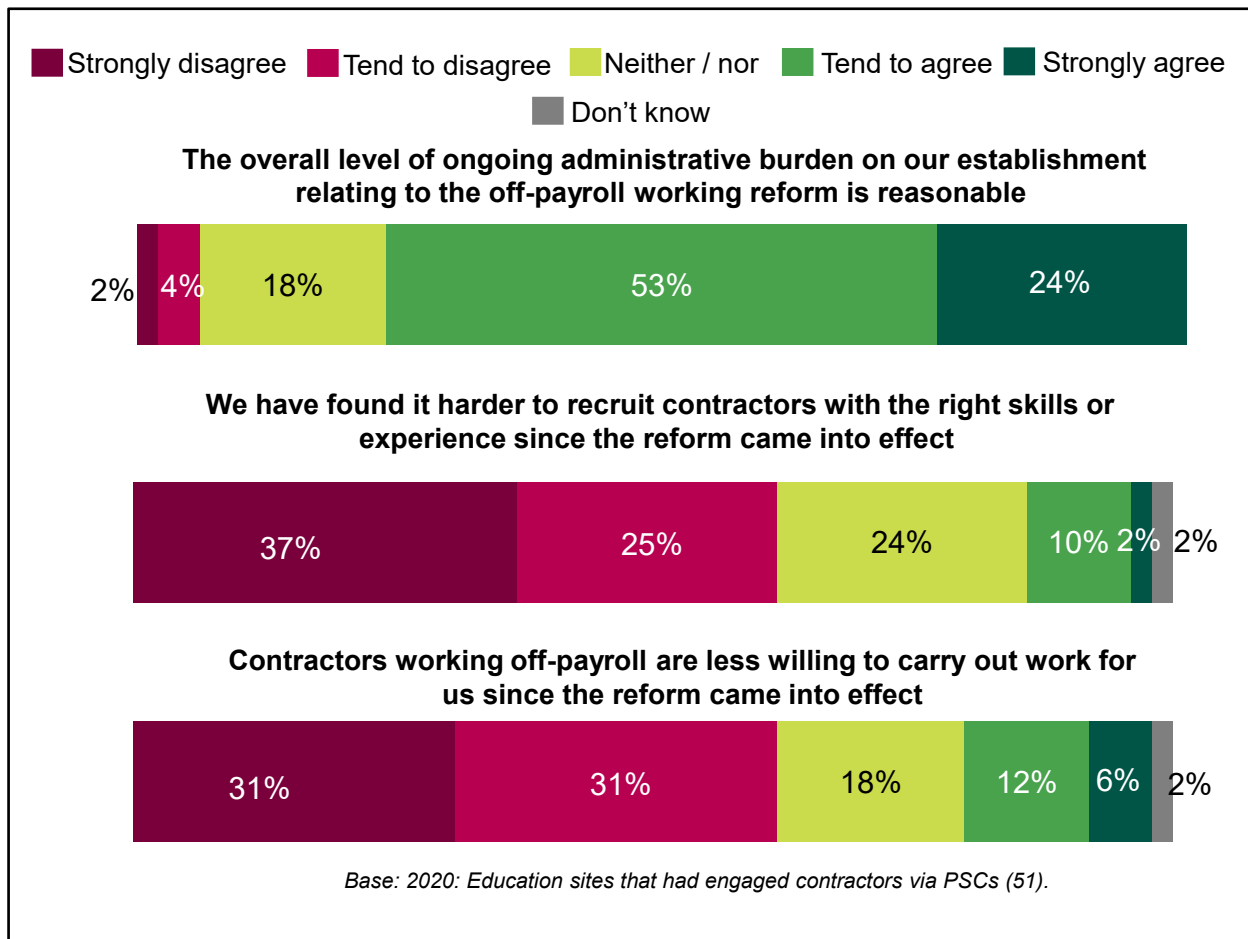
Figure 3.5 Ease of complying with the reform



- 3.44 Those that said it was difficult to comply were asked why they said this. The most common reasons cited for difficulties complying included: the information being unclear or difficult to understand (mentioned by 6/14 respondents), difficulties using CEST (4 respondents) and sites lacking confidence in their understanding of the legislation (3 respondents). All of these topics were explored in more depth elsewhere in the survey, and are covered in this report.
- 3.45 The perceived ease of complying with the reform was also reflected in sites' responses when asked the extent to which they agree that 'the overall level of ongoing administrative burden on our establishment relating to the off-payroll working reform is reasonable'. As shown in Figure 3.6, over three-quarters (76%) of education sites agreed with this statement, while 6% disagreed. Although phrased slightly differently in the previous survey, in 2017 almost half (47%) of education sites said the reform had been burdensome.⁶
- 3.46 Other survey results also suggested that administering the reform had not been burdensome. For example, almost all sites (98%) said they did not need to take on any additional staff to help with the implementation and ongoing administration of the reform (the other 2% were unsure). Whilst a minority (12%) agreed they had found it harder to recruit contractors with the right skills and experiences since the reforms came into effect, around two-thirds (63%) did not find it harder to recruit contractors. Results were similar in 2017, when 11% said they had found it harder to recruit since the reform.

⁶ In 2017 respondents were asked about agreement with the statement: "Reforms to off-payroll working have been burdensome to our organisation"

Figure 3.6 Extent of agreement with attitudinal statements about the impacts of the off-payroll working reform

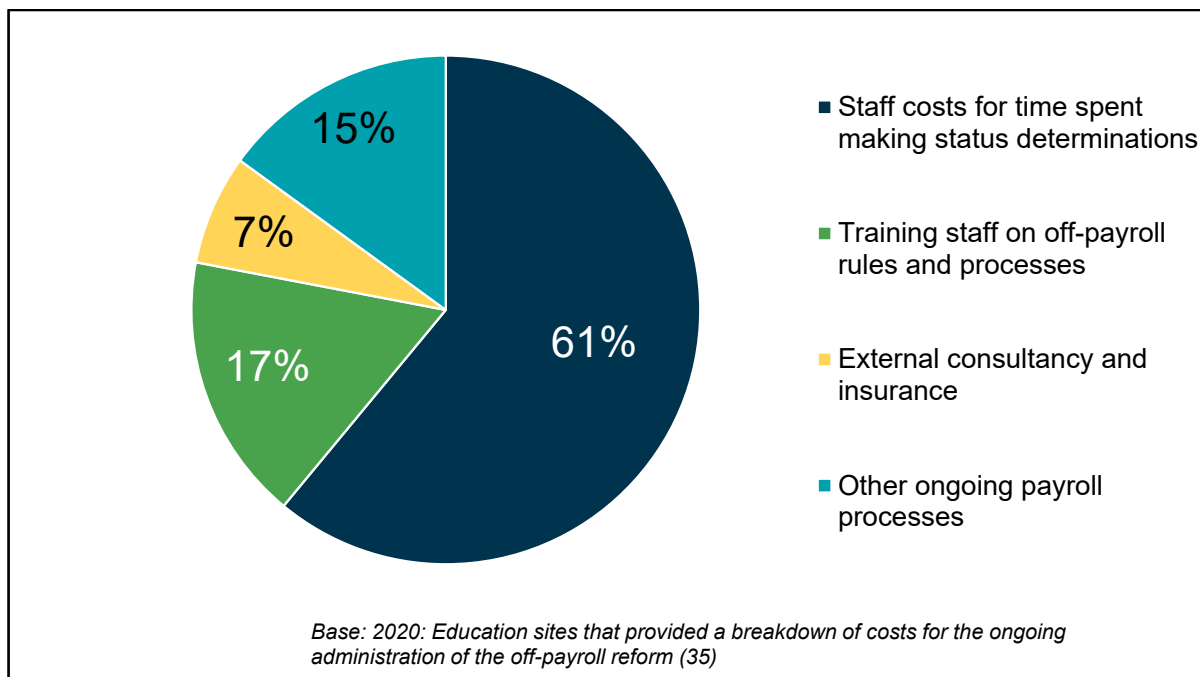


3.47 Around one in five education sites (18%) agreed that contractors working off-payroll were less willing to work for them since the reform came into effect, and 63% disagreed with this statement. A similar proportion agreed with this statement in 2017 (24%). Similarly, the vast majority (88%) of education sites that had engaged contractors both before and after the reform was introduced said there had been no change in their ability to fill contract vacancies (7% said it had become more difficult).

3.48 Almost half (47%) of sites said that the ongoing administration costs of the off-payroll working rules for off-payroll contractors working through PSCs between April 2019 and March 2020 had stayed the same compared to the same costs between April 2017 and March 2018. A quarter (25%) said these costs had decreased, while 22% said the costs had increased. A small proportion (6%) had not engaged off-payroll contractors between April 2017 and March 2018.

3.49 The mean total operating costs to education establishments for the ongoing administration of the off-payroll working rules for those working through PSCs between April 2019 and March 2020 was £2,630, while the median was £250. Figure 3.7 shows a breakdown of these costs, with staff costs for time spent making status determinations making up the majority of the overall costs (61%).

Figure 3.7 Breakdown of the ongoing administration costs of the off-payroll working reform



3.50 In follow-up interviews, respondents felt that the ongoing costs of administering the off-payroll reform were minimal, despite somewhat larger set-up costs. However, there was general agreement that the rules were complex and sometimes confusing to comply with, leading to uncertainty or a lack of confidence in making determinations. Some mentioned being frightened about ‘getting things wrong’.

“When this legislation came in it caused a bit of a nightmare quite frankly, for not only the personnel department here but for the group of business managers that I’m a part of in [local authority] and to be honest I still don’t think I’ve got to grips with it... It’s my biggest one nightmare of the job because we want to do things right. I understand the government are saying they’re losing loads of money in Income Tax and NICs but for us the amount we do... it just seems like the public sector is an easy hit—we like to do things properly.”

Secondary school, 100–249 employees

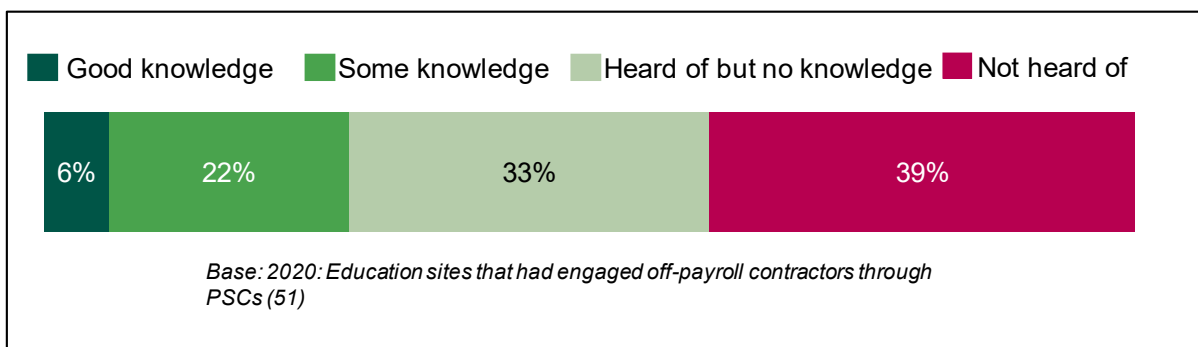
The 2021 reform

3.51 As well as assessing the longer-term impacts of the 2017 off-payroll working reform the research also explored awareness and preparedness of upcoming reform in April 2021. Under the new reform, all public authorities will be required to communicate employment status determinations to contractors via a Status Determination Statement (SDS); pass this SDS to any agencies they engage off-payroll contractors through (in order to pass on the responsibility for deducting Income Tax and NICs); keep detailed records of their status determinations; and have processes in place for dealing with any disagreements that arise from these determinations.

3.52 Fieldwork for both the survey and follow up interviews was carried out between September and November 2020, which coincided with HMRC increasing their customer education programme to help customers prepare for the 2021 reforms discussed here.

3.53 As shown in Figure 3.8, around three in five education sites (61%) said they had at least some awareness of the 2021 reform, although 6% said they had a good knowledge of what the 2021 reform involves.

Figure 3.8 Awareness and knowledge of the 2021 reform



3.54 Results also showed that many education sites do not feel prepared for the April 2021 reform; more than half (53%) said they were not prepared and a quarter (25%) said they were ‘not at all prepared’. Of the remaining 47% that were prepared for the reform, 18% felt ‘very prepared’.

3.55 Awareness and preparedness for the reform were also explored further in qualitative follow-up interviews. Some sites felt confident that they were already complying with the upcoming reform, or would need to make minimal changes, as they were supplying status determinations to the contractor as standard. Some schools that lacked awareness mentioned relying on the local authority to provide them with information about the upcoming reform and had yet to receive any information about the 2021 reform.

“We’re going to need some sort of guidance—we’re not au fait with it.”

Primary school, 50–99 employees

3.56 While many respondents in the follow-up interviews felt they would be able to comply with the upcoming reform, some felt that the reform might increase the number of disputes due to a lack of understanding of the off-payroll working rules among contractors. None of the follow-up respondents had made a clear plan about how they would communicate the reform to contractors, mostly because of the relatively low incidence of contracts which were assessed.

3.57 In terms of sources of support for the upcoming reform, the majority of education sites in the survey said they planned to access support via HMRC or the GOV.UK website (86% and 82% respectively) and around half (49%) said they would access support via their local authority. The most common support types that education sites thought would help their preparation were e-training or webinars (37%), advice or guidance webpages (35%) and technical guidance (25%).

3.58 Some suggestions for additional support were also mentioned in follow-up interviews. One respondent requested a phone number to call after using the CEST tool, in case they were unable to determine a contractor’s status. However, others mentioned that they had used such a number. Another suggested that an online chat service via HMRC’s website could be useful for resolving difficulties.

Conclusions

- 3.59 Overall, results showed the 2017 reform had very little impact on education sites over the longer-term. There is little indication overall that sites are reducing their engagement with PSCs as a result of the reform.
- 3.60 That being said, qualitative interviews demonstrated that some education sites still lack confidence in their understanding of the off-payroll working rules and in making status determinations, fearing the repercussions if they make the wrong decisions. Some felt that guidance on the off-payroll working rules needed to be clearer, and while many felt CEST was helpful, some mentioned drawbacks such as not receiving conclusive outcomes and a lack of information about what to do next.

“

IFF Research illuminates the world for organisations businesses and individuals helping them to make better-informed decisions.”

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2. Being human first:

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