



SHIELD PASSPORT PROCESS

OPERATIONS MANUAL
OFF-PAYROLL WORKING

Contents

About the Authors	3
Introduction	4
The 4 Stage Process	6
Stage 1 - Identify	8
Collate	8
Explore	8
Segment	11
Assess	12
Stage 2 - Analyse	14
Risk Profiling	14
Financial Modelling	17
Stage 3 - Plan	20
Engagement	20
Policies	23
Finance	24
Stage 4 - Implement	26
Communication	26
Alignment	27
Monitoring	28
Appendices	30
Glossary	34

Disclaimer Statement

The content of this guide is for guidance only and is not designed to replace your professional advisers or replace the need for professional advice. The guide has been written for those companies that will be required to apply the new rules and does not cover the small company exemption. Whilst every care has been taken to ensure its accuracy, this is a new and complex area that will only become clear as the courts make their rulings. In all cases, you should seek your own legal and professional advice for your own situation. This guide represents our understanding at the time of going to print.

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About the Authors



Crawford Temple Managing Director - Professional Passport

Crawford's background is compliance and operations, having spent many years in the financial services sector managing compliance and operations at senior levels. During this time, he worked with a team dealing with the fast-growing contracting market. 10 years later, he left financial services and was asked to become CEO of a firm offering support services to contractors.

Five years later, around the same time that the Managed Service Company legislation was introduced, Crawford formed Professional Passport as an independent company assessing the compliance of service providers and payment intermediaries. Working closely with HMRC and other Government departments, Professional Passport developed the first compliance standards for the sector.

Over the last 12 years, and many further changes to legislation, Professional Passport have continued to develop compliance standards in line with their understanding of HMRC's interpretation of the rules. Professional Passport is now the largest independent assessor of compliance across the payment intermediaries market.

Crawford has long been regarded as an expert in this field and in 2010 was asked to join the Office of Tax Simplification to advise the then Chancellor of the Exchequer on small business tax, including IR35.



Dave Chaplin Managing Director - IR35 Shield

Dave is founder and CEO of ContractorCalculator.co.uk, the leading website and information portal for contingent workers in the UK. ContractorCalculator attracts over 200,000 visitors each month, has over 40,000 subscribers and over 20,000 social media followers. Dave is regularly featured in the media discussing IR35, having appeared in: BBC, FT, The Times, Guardian, Telegraph, Recruiter, Personnel Today, HR Director, Computer Weekly, Taxation Magazine, Lawyer Monthly and AccountingWeb.

Dave is a champion for the self-employed. His professional background is mathematics (BSc, MSc) and commercial software development (25 years' experience). As a contractor for many years, he led teams of developers in building a range of systems for legal and financial institutions in the City of London, before moving full-time to developing ContractorCalculator in 2004. He has been following the IR35 legislation and related employment status case law in detail since IR35 began in April 2000, and more recently helped a contractor win an IR35 appeal at Tribunal.

It was with this unique combination of skills, and his highly capable development team, that he was able to design and build the IR35 compliance solution IR35 Shield. The current version of IR35 Shield was released in Feb 2017 and has delivered over 35,000 assessments to date.

Introduction

The 'Off-Payroll Working in the private sector' rules come into effect for payments made to contractors' personal service companies from April 2020. The legislation imposes strict compliance requirements on end-clients and their recruitment partners. However, the importance of implementing efficient, effective and accurate compliance processes goes far beyond the need to meet a legislative requirement.

Below are the most significant changes that must be understood to ensure compliance with the new rules:

- The rules shift the responsibility of assessing the IR35 status of an engagement away from the contractor and onto the end-client.
- The client is obliged to ensure that they take 'reasonable care' in making the assessment, and to assess each assignment individually. 'Blanket assessments', whereby multiple contractors have their IR35 status determined by a single status assessment, are not permitted.
- Once an assessment has been made, the end-client must communicate the outcome through the supply chain, as well as directly to the contractor. Failure to do this carries significant penalties for the end-client as any resulting unpaid tax liabilities can be passed back to them.
- Where an assessment concludes that an engagement is 'inside IR35', the 'fee-payer' becomes liable for employment taxes. This is composed of employer's National Insurance Contributions (13.8%) and the Apprenticeship Levy (0.5%) which must be paid on top of the contract rate.
- The 'fee-payer' is the intermediary that engages directly with the contractor, which will typically be a recruitment agency.
- Where an assessment has not been conducted in line with the legislative requirements, the status determination may be challenged by the contractor, while the client assumes a degree of liability risk for any resulting unpaid taxes.
- Where an assessment has been carried out in line with the requirements and the outcome is found to be incorrect, liabilities initially rest with the fee-payer, but can be passed back up to the client if HMRC fails to recoup sums owed from parties below it in the supply chain.
- Where the supply chain fails to operate in line with the end client's instruction on status, HMRC can pursue the client's recruitment partner and ultimately the client if it fails to retrieve liabilities due from the offending party.

The Off-Payroll rules have a number of significant implications for end-clients and their recruitment partners. What's clear so far is that:

- HMRC is ensuring that it has powers to recover monies by reassigning liabilities to other parties within a supply chain when it encounters trouble retrieving the liability from the offending party. This means that all liabilities can, in most cases, lead back to the client and their recruitment partner.
- Accurately assessing the IR35 status of each engagement is the first critical part of the compliance process. Any failings in this area are likely to result in liabilities.
- Strict policing of the supply chain by client and recruitment partner is the second critical part of this process, in order to effectively mitigate the risk of assuming a non-compliant party's tax liability.
- Clients and agencies must work together closely and ensure that their practices are carefully aligned. If HMRC identifies any discrepancies between either party's compliance protocol, it will strengthen the taxman's case in the event of a dispute.
- Though the fee-payer assumes liability for employment taxes where an engagement is deemed within scope of the rules, recruiters simply won't be able to fund this cost, which will need to be factored into renegotiated margins with clients.
- Clients also need to consider the behavioural impact of the Off-Payroll rules, and how contractors will react to status assessments that they don't necessarily agree with.
- Whereas demonstrating comprehensive and accurate compliance processes is key to avoiding disputes over status, clients can still expect certain contractors to counter an 'inside IR35' status determination by rejecting the contract or attempting to negotiate an increased rate.

The 4 Stage Process

Throughout this manual we outline a four-stage plan which achieves a robust outcome in both supply chain compliance and status assessments. Following this plan will help ensure that you remain compliant and competitive, while mitigating both the risks threatened and the administrative workload imposed by the Off-Payroll rules.

STAGE 1

IDENTIFY

This stage is all about gathering all the hard data necessary for beginning the process. The 4 Steps for this stage are: **Collate, Explore, Segment and Assess.**

Gather all the data and identify the contractors who are affected by the changes.

By the end of this stage you will:

- Understand which contractors need to be considered under the Off-Payroll rules due to the operating structure used
- Have determined the Off-Payroll status of the affected contractors.

STAGE 2

ANALYSE

Once you have gathered your data, you can begin to gauge the impact on your business and your workforce by applying two key steps: **Risk Profiling** and **Modelling.**

Understand the issues across your whole contractor workforce.

By the end of this stage you will have:

- Pinpointed any existing risks in your current supply chain
- Identified the financial implications resulting from your Off-Payroll assessments.

The four stages have been broken down into 12 simple steps that take you through each individual task required. We also show how the completion of these tasks can be achieved and enhanced using tried and tested support processes that will simplify your journey through to April 2020.

As well as an appendix to aid with the completion of certain tasks, there is also a glossary at the end of the document providing clarity over certain terms and phrases specific to both the Off-Payroll rules and the Shield Passport Process's service offering.



STAGE 3

PLAN

By now you will have a clear understanding of the task at hand and will be in a position to build your plan moving forward. This stage is composed of three key steps: **Engagement**, **Policies** and **Finance**.

Understand all your options and decide on the most appropriate actions for your situation.

By the end of this stage you will have:

- Finalised the models of engagement that you will use,
- Determined your legal and compliance policies
- Established your project budgets and contract rates offered to affected contractors.

STAGE 4

IMPLEMENT

You now know what you need to do and how you are going to do it. Now it's a case of putting your plan into action. This stage considers the three key Steps of: **Communicate**, **Alignment** and **Monitoring**.

You've built the plan, now it just needs implementing.

By the end of this stage you will have:

- Communicated changes to contractors and established plans going forward
- Aligned compliance practices with recruitment partners and begun implementation
- Established clear processes for ongoing monitoring.

STAGE 1**IDENTIFY**

This stage is all about gathering all the hard data necessary for you to begin the process. The four steps for this stage are: **Collate, Explore, Segment** and **Assess**.

Unbeknownst to some end-clients, not all contractors are subject to the Off-Payroll rules. To negate a lot of unnecessary administration and expenditure, the first step is to clarify operating structures.

STEP 1a | COLLATE

The legislation makes it clear that only workers operating through their own Personal Service Company (PSC) – or 'limited company' – are subject to the rules. This is because contractors using any other operating model are, by default, already taxed via Pay As You Earn (PAYE).

However, many clients are unaware that contractors undertake several different operating structures. In addition, most won't hold details of how their contractors are engaged simply because it hasn't been of any significance to them. Things have changed. Information concerning operating structures is now the first data set that needs to be collected.

In determining the number of contractors operating via a limited company, clients can accurately gauge the size of the task at hand. Many will find that their perceived compliance burden is drastically reduced, with limited company contractors only making up a fraction of their contingent workforce. As a result, this exercise could prevent a lot of unnecessary and costly administration for clients who may otherwise have conducted status assessments for contractors who are outside the scope of the Off-Payroll rules.

Exercise

We advise conducting an audit of your recruitment partners by circulating a spreadsheet requesting details of each contractor's operating structure. The spreadsheet should be sent to all recruitment partners with a set date for the completion and return of data. The spreadsheet should contain a separate tab for each operating structure, as follows:

- **Limited Company/PSC**
This should include details for: contractor name, limited company name and registration number.
- **Umbrella Company**
This should include details for: contractor name, umbrella company name and registration number.
- **Agency PAYE**
This should only include contractors being paid directly by the recruitment agency and should simply request the contractor's name.
- **Self-Employed**
This should request the contractor's name and the name of any payment intermediary in the contractual chain, or the name of the recruitment company if engaged directly by them.



Appendix 1.1-1 provides a suggested template for the email to be sent to recruitment partners. Your template spreadsheet should be attached.

- **Other**

This covers all contractors that are not included in any of the above categories. This should include the name of the contractor and a description of how they are operating.

STEP 1b | EXPLORE

Once your spreadsheet has been circulated and you are awaiting responses, you can begin to explore the potential status of your workers, by focusing on projects, areas of work, or what you might call 'roles'.

'Role' is a bit of a taboo word in the IR35 space, because it has connotations with permanent employment, where one assumes a job title and provides skills for a set number of hours. In other words, it can imply that one is inside IR35. Self-employed people are consultants who are hired to deliver agreed services, and only get paid for work done. We will continue to use 'role' for the sake of understanding, but what we are really referring to here is what you might describe as a common engagement profile.

This exercise is essential because it helps businesses ascertain a general picture of the IR35 risk across their workforce while highlighting their main compliance challenges. In return, it enables them to mitigate risk and minimise future compliance costs and workload.

The way by which this is achieved is two-fold. Firstly, the information gathered during this stage can be reused at a later date where appropriate, helping to speed up the assessment process. Secondly, this exercise can help to identify legitimate measures that could be applied to working engagements across the entire contingent workforce to reduce IR35 risk, establishing more legitimate outside IR35 assessments. Exploring IR35 risk also allows clients to identify and prioritise the most urgent engagements, such as 'inside IR35' assignments which overlap beyond April 2020.

We advise on how to implement IR35 compliance using our own compliance solution, IR35 Shield. This is a scalable, AI-powered solution with features designed to supplement the Shield Passport Process, ensuring that each step is completed swiftly and accurately.

Exercise

The first step is to group together contractors in similar working arrangements. This will form a solid foundation when exploring their potential status. This is a task that can be complemented using IR35 Shield's Collaborative Assessments feature, which enables users to create numerous contractor roles, for which status assessments can be conducted to indicate what the status of each engagement is likely to be.

List the roles

Establish what the role profiles might be and create a list. Then assign them to each of your contractors to help you understand how many of each one you may have. For each role you will need to have located the contractual documents. This means both the upper level contract (the contract between the client and recruitment partner) and the lower level contract (the contract between the fee-payer and contractor's limited company), as well as information gathered concerning the working conditions.

Contract Information

It is likely that contractors grouped in the same role will be engaged on contracts based on the same template. You'll need the full list of each of those contracts. For each contract type you have, use IR35 Shield to create a contract component. This will involve answering status assessment questions concerning the contractual conditions. Individual components will need to be created for upper and lower level contract templates. If you do not have in-house legal expertise this is an area where you might consider engaging some help.



For a detailed explanation please see the video for **Collaborative Assessments** on the IR35 Shield youtube channel.

STAGE 1

IDENTIFY

This stage is all about gathering all the hard data necessary for you to begin the process. The four steps for this stage are: **Collate, Explore, Segment** and **Assess**.

Working conditions - roles

For each role identified, use IR35 Shield to create a working conditions component. This means answering a subset of the status assessment questions that are specific to that role. Questions should ideally be answered by the line manager dealing with the contractors in question, or another member of management with practical experience of the area of work.

Collaborative Assessment

Having created various components based on contracts and working conditions, you will now have enough information to begin creating collaborative assessments. Using IR35 Shield's Collaborative Assessments feature, this can be achieved simply by selecting the applicable combination of components for each role.

Once components have been selected for a role, you will receive an 'indicative status determination'. This is based on the answers provided through the combination of components selected. Note: a complete assessment requires that the contractor answer questions about their limited company business, so no firm conclusions can be drawn at this stage.

Nonetheless, having completed a collaborative assessment for each identified contractor role, you will have:

- A helicopter view of each contractor role's likely status
- A picture of your company's overall IR35 risk
- An overview of the common IR35 risk factors faced by your company
- Invaluable information upon which to base future compliance decisions

If you would like to use a more specific profile of a contractor, you can simply use the Collaborative Assessments feature to invite yourself to take the test and answer the questions as if you were the contractor. This will also enable you to generate a full Status Determination Statement (SDS) for that role. This contains all the details you need to understand the reasons for the indicative status determination.



For a detailed explanation please see the video for **Collaborative Assessments** on the IR35 Shield youtube channel.

Group and consider

You can now split your roles into five groups:

- Most likely inside IR35
- Probably inside IR35
- Unable to determine
- Probably outside IR35
- Most likely outside IR35

For the roles that are inside IR35, you can consider whether it is practical to change the working conditions, so they are more reflective of an outside IR35 arrangement. This will help in minimising IR35 risk while potentially helping contractors to achieve outside IR35 status. Likewise, for the roles probably outside IR35, you can consider whether some changes to working practices result in the determination being more likely to be outside IR35.

The goal when conducting this analysis, is to shape the working arrangements for contractors whereby certainty is maximised for you, thereby reducing risk. The result will be a set of outcomes that defines relationships and likely status.

But remember, this is not a case of imposing contrived, unrealistic amendments to engagements – this will only create risk in the long term. You need to decide whether contractual amendments and changes to working conditions that minimise IR35 risk can be legitimately applied in practice without causing any problems.

STEP 1c | SEGMENT

Having gathered the operating structure data from your recruitment partners and created an indicative status assessment for each identified contractor role, you have the ingredients necessary to identify the true extent of the impact of the Off-Payroll rules on your business. This step also helps you to identify the areas likely to need particular focus, prior to conducting full status assessments.

Exercise

This is a case of identifying each contractor's operating structure and matching contractors up with their relevant contractor role and its indicative status assessment outcome. This will reveal the scale of the impact on your company.

For example, if your contractors who have been determined as inside IR35 are all operating through either an umbrella company or an agency PAYE, the impact will be minimal, and you are unlikely to need significant changes.

Conversely, if many of your contractors with an inside IR35 determination are operating through their own limited companies this will have the greatest impact on you.

Outside determinations have no impact regardless of the contractor's operating structure. The contractor will be able to continue operating in their chosen manner with no impact on you as the end-client.

At this stage, certain IR35 risk factors may become more prominent, and you may want to consider once more whether legitimate alterations to contracts and working practices can be made to mitigate IR35 risk.



To assist you in understanding this we have provided a range of outcomes and actions for you to consider in **Appendix 1.3-1**.

STAGE
1**IDENTIFY**

This stage is all about gathering all the hard data necessary for you to begin the process. The four steps for this stage are: **Collate, Explore, Segment** and **Assess**.

STEP **1d** | **ASSESS**

The Off-Payroll legislation requires that clients take 'reasonable care' in assessing the IR35 status of their contractors. This effectively requires that clients carry out a comprehensive, considered assessment, exploring every aspect of the engagement and leaving little room for doubt over the end determination.

As previously noted, the information to be considered during each individual engagement comes from three sources:

- i. The contract paperwork: Both upper and lower level contracts
- ii. The working conditions for the engagement
- iii. The contractors details

Not only must clients take reasonable care, but they must also demonstrate this through the provision of a Status Determination Statement (SDS) to the contractor. This is a statement which:

- Declares the contractor's deemed employment status following the assessment
- Provides comprehensive reasoning for reaching this conclusion

Crucially, if the client fails to provide an SDS having assessed the contractor, or if an SDS provided doesn't demonstrate reasonable care, then the client will assume any resulting tax liability risk from the fee-payer.

There is a lot at stake for each individual assessment, and the challenge for many firms will be one of volume, consistency and accuracy. Ultimately, a lot will hinge on your compliance solution, and the tax liability risk makes it imperative that your chosen solution is able to:

- Segment assessments to ensure questions are answered by relevant parties
- Scale offering for timely and accurate assessments of large numbers of contractors
- Create an SDS for each assessment, detailing reasons for the determination

With IR35 Shield, all the above can be achieved to minimise your exposure to unnecessary risk.

Exercise

Using IR35 Shield, you will already have gathered the relevant information from the contract paperwork and the working conditions. The final step to a full assessment is to have your contractors provide the necessary information concerning their limited company and combine this with the previously held data to reach a full assessment.

Be very careful not to ask the contractor about their contract or the working practices, because there is a strong financial motivation for them to provide answers that demonstrate wishful thinking, which could increase your tax liability risk.

Here's how you arrive at a full assessment using IR35 Shield:

1. Each of your contractors will already be assigned to a role, and you have set up a Collaborative Assessment for each one of those roles.
2. You then send assessment invitations to contractors. You can issue multiple invites at a time and contractors receive their invitations via email.
3. You can monitor the progress of the assessments being completed, sending automated email reminders via the dashboard if necessary, until all of the assessments have been completed.
4. Once the contractor has provided their answers, these will be analysed by IR35 Shield alongside the pre-existing information to provide you with the completed assessment.



For a detailed explanation please see the video **Invite your workforce to assess their IR35 status** on the IR35 Shield youtube channel.

**STAGE
2****ANALYSE**

Once you have gathered your data, you can begin to gauge the impact on your business and your workforce by applying two key steps: **Risk Profiling** and **Modelling**.

In this stage we explain:

- 1 - How to assess the risks in your contractor supply chain
- 2 - The likely cost implications based on the outcomes of your status determinations

STEP 2a | RISK PROFILING

Risk profiling is essential to help protect you from potential liabilities that can be passed back up the supply chain when non-compliance is present. Controversially, the private sector iteration of the Off-Payroll rules includes tax liability transfer provisions.

These enable HMRC to target the fee-payer (usually an agency) and ultimately the end-client for tax liabilities resulting from non-compliance from another intermediary in the supply chain, should it fail to recoup the sums owed from the offending party.

Unfortunately, this means that simply ensuring that you are compliant with the Off-Payroll rules isn't enough in the eyes of the taxman. Strict policing of your supply chain is also essential.

The logical place to start is understanding the risks that exist in your current supply chain. This is a step which requires particularly close cooperation between you and your recruitment partners, and the data on operating structures supplied by your recruitment partners will provide all the information needed to assess the robustness of your current supply chain compliance. We will look at each tab in detail.

Limited Company Tab

Currently, this arrangement represents little risk to the end-client from a compliance perspective, although this is set to change from April 2020.

Under the Off-Payroll rules, if you are going to allow contractors deemed within scope of IR35 to operate through their own company, you must be clear on which party in the supply chain is the 'fee-payer'. This is because if the 'fee-payer' fails to act in accordance with your status determinations, you could find yourself liable for unpaid taxes.

When the rules were first introduced to the public sector, we saw a range of non-compliant 'fee payer' arrangements specifically designed to ignore client status determinations and provide workers with a higher take-home pay.

This issue has controversially been addressed in the private sector where the Off-Payroll rules permit HMRC to pursue the end-client for unpaid taxes in such an event.



The Off-Payroll rules define the 'fee-payer' as the party that engages directly with the contractor's limited company. This will be your recruitment partner in many cases. In other, more convoluted supply chains, this won't be the case. Your recruitment partner will need to provide some insight to determine your level of risk.

Umbrella Company Tab

Many payment intermediaries call themselves umbrella companies, although not all are.

Within this area there are variations, many of which are high-risk. These high-risk offerings are likely to result in unpaid tax which, in certain situations, could be passed back up the supply chain.

Some recruitment companies have also allowed the use of these high-risk providers who often provide large incentives to the recruiters.

The risk-mitigating step in this area is to risk-profile the providers in your supply chain. Professional Passport can assist you in this process. This involves categorising the providers into three categories: high, medium and low risk. Definitions of these are explained in detail later.

This process requires significant background knowledge and experience. Professional Passport's extensive experience across the sector means we are ideally placed to assist you and help identify the potential risks in your supply chain.

Agency PAYE Tab

These are low-risk engagements where the contractor is paid directly by one of your recruitment partners.

Self-Employed Tab

It is rare for clients to have contractors engaged in this way through their recruitment partners. But if you have recruitment partners who engage self-employed contractors, you need to fully understand the contractual relationships and whether a payment intermediary is in the supply chain.

If you engage self-employed workers directly, we advise caution in light of the many employment rights cases relating to the gig economy, where many workers have made successful claims for employment rights. Engaging a contractor in this way while assessing them as 'inside IR35' could leave you vulnerable to such a claim.

It is worth noting that the inclusion of a recruitment company in the supply chain between the contractor and the client significantly mitigates the risk of the contractor bringing an employment rights case.

Other Tab

Any means of engagement which hasn't already been addressed should be considered high-risk. The description of what is being offered needs to be fully understood and assessed on an individual basis.

**STAGE
2****ANALYSE**

Once you have gathered your data, you can begin to gauge the impact on your business and your workforce by applying two key steps: **Risk Profiling** and **Modelling**.

Umbrella Company Risk**HIGH RISK**

High-risk providers often aren't what they claim to be and undertake dodgy practices. It goes without saying not to deal with these companies.

If you already have high-risk providers in your supply chain, it's best to insist that all contractors involved move immediately to a provider whose compliance has been verified by a recognised industry body. Professional Passport offers the only insured accreditation available, providing unparalleled certainty and security for those who engage accredited umbrella companies.

You must also ensure that these providers are not used for any new contracts offered and may wish to consider whether to continue relationships with any recruitment partners who have allowed high-risk providers into the supply chain. Continued engagement of careless recruitment partners could pose significant risks once the new rules come into effect.

Identifying high-risk providers at an early stage creates a firm platform for rigorous compliance processes with your recruitment partners in the run up to April 2020. We cover this in more detail in section 4b - Alignment.

MEDIUM RISK

Medium-risk providers are those where there is no evidence of non-compliance, but also no evidence of compliance verification of their services, effectively rendering them unknown quantities.

Should any of your contractors be operating via a medium-risk provider, we suggest that you ask them to move to a low-risk provider at the earliest convenient opportunity, either upon their next contract renewal or extension.

You are also advised not to use these providers for any new contracts offered.

LOW RISK

Any umbrella provider that holds a current, recognised compliance accreditation is a low-risk provider, and is highly unlikely to pose any sort of threat to the supply chain.

However, be aware that industry body accreditations are subject to small variations, with some assessing providers that appear as umbrella companies, yet which sub-contract work to a contractor's limited company. HMRC specifically references this in its published guidance.

Since the interaction between the provider and the contractor's limited company in these arrangements is masked from view, Professional Passport would consider these providers to pose a bigger threat post-April 2020. Where the provider is found to have operated incorrectly, this could result in unpaid tax liabilities being passed back up the supply chain to the client.

Professional Passport does not accredit providers that operate in this way.

STEP 2b | FINANCIAL MODELLING

Having completed your status assessments, you will have a picture of your workforce and what the likely status determinations are going to be for each contractor currently operating through a PSC.

Whereas engaging a contractor legitimately outside of IR35 makes no material difference to your bottom line under the Off-Payroll rules, the same can't be said for contractors considered within scope of the rules.

Employment taxes, composed of employer's NICs (13.8%) and the Apprenticeship Levy (0.5%), are due on top of the contract rate paid to inside IR35 contractors. Whereas the recruitment agency that engages directly with the contractor's limited company will technically be liable for this amount, no agency can realistically afford this sum.

Consequently, you can expect your agencies to renegotiate their margins to accommodate the cost, passing onto you what is effectively an immediate 14.3% increase in the cost of hiring each inside-IR35 contractor. But calculating the cost of employment taxes is just one of several factors at play when understanding the financial implications of the Off-Payroll rules.

This step is designed to help identify and plan for these factors, while exploring compliant ways to mitigate their cost that supplement effective navigation of the Off-Payroll rules.

Having assessed your contingent workforce, you will now be able to conduct some modelling and answer two key questions:

- What is the financial risk?
- Where are the problems?

These issues may present themselves in several ways. You may want to consider:

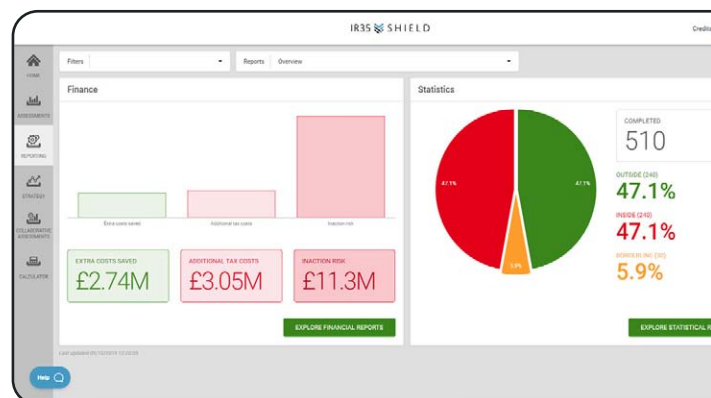
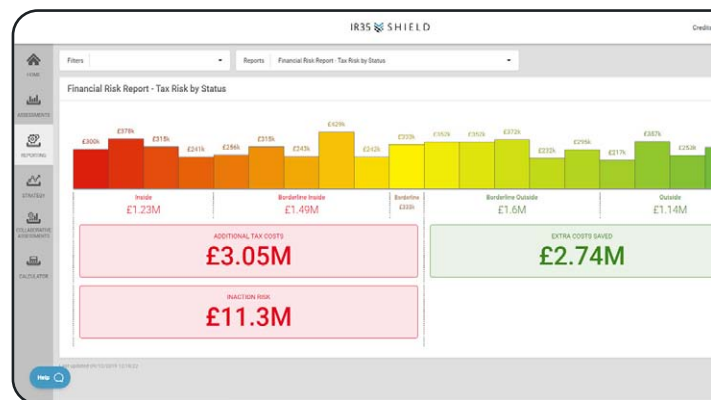
- How much is the extra tax bill likely to be?
- What status factors are common across the firm, causing risk?
- What projects are most at risk?

The answers to these questions may be alarming, but they will find out whether the outcomes can be mitigated or remedied. This is covered in section 3c - Finance.

For PSC contractors who are identified as inside IR35, the following applies:

Task: Calculate the extra employment taxes that will be due, prior to any contract renegotiation. This is your headline extra cost figure, which may increase or decrease, so determine what the business can potentially withstand in terms of extra budget.

Task: Understand where the risks are grouped. Are your highly paid, difficult to replace contractors the ones who are at risk? Or perhaps it is your lower paid, possibly more expendable contractors? Consider the relative likely costs of retaining and replacing the contractors in question, and the impact these decisions are expected to have on projects.



**STAGE
2****ANALYSE**

Once you have gathered your data, you can begin to gauge the impact on your business and your workforce by applying two key steps: **Risk Profiling** and **Modelling**.

Task: Understand where the status problems exist. For each assessment, or group of assessments, examine the common factors contributing to the inside IR35 determination. Then, explore whether these issues can be addressed to mitigate IR35 risk.

Using IR35 Shield's reporting features, you can gain an insight into the impact of your status assessments on your company's finances. You can then understand more about how the working conditions across your workforce impact IR35 status.

IR35 Shield's high-level financial reports use your contractor day rates, expenses and other financial information to present a picture of your company's potential extra costs, or risks, depending on their status outcome.

Meanwhile, statistical reports take data from the status assessments conducted to illustrate areas where patterns may be forming, which you may seek to address. There are also multiple filters, so you can slice and dice the information.



For a detailed explanation please see the video for **Financial & Statistical Reporting on IR35 Shield** on the IR35 Shield youtube channel.

**STAGE
3****PLAN**

By now you will have a clear understanding of the task in hand and will be in a position to build your plan moving forward. This looks at 3 key steps: **Engagement**, **Policies** and **Finance**.

We show you how to pull all the information together to create your plan for implementation. This will also help you to understand who in your business is best placed to manage each section of your plan.

STEP 3a | ENGAGEMENT

In addition to imposing significant changes to how contractors are assessed for and taxed under IR35, the Off-Payroll rules are expected to generate a shift in the engagement models that some companies adopt when hiring contractors.

You may decide to review your engagement options for several issues, such as:

- To minimise the threat of the tax liability transfer provisions
- To mitigate the administrative workload associated with hiring a 'deemed employee'
- To negate the emerging threat of employment rights claims from affected contractors

In this section we look at the various options available and explain in which circumstances it may be appropriate to consider their use.

Organisations offering many of the models of engagement discussed in this section are accredited by Professional Passport. An overview of the accredited service providers is available at www.professionalpassport.com/End-clients/Approved-Providers/485.

Direct Engagement

We speak to many clients who directly engage contractors. However, due to the recent employment rights cases relating to 'gig economy' workers, this is becoming a higher risk strategy, particularly where the worker is engaged as a self-employed individual.

Where contractors are paying tax via PAYE – i.e. as an employee – many put forward the legitimate argument that they should also receive the benefits that come with employment. A significant number of the resulting employment rights cases have not gone in favour of the end client.

In situations where high numbers of contractors are engaged directly, clients also face an increased administrative burden, as each individual invoice has to be processed and paid, usually on a monthly basis.

Directly engaging contractors comes with increased risks and should be carefully considered after the changes.

Traditional Recruitment Company Partnership

The presence of a recruitment company between client and contractor remedies the key issues highlighted above.

Clients gain protection from employment rights challenges by inserting a recruitment company into the mix, meaning they no longer hold a direct contract with the contractor. As a result, recruitment companies

will often agree lower margins for the handling of these contractors.

This relationship not only protects clients from the threat of employment cases but also provides simplified administration, as the recruitment company will generally provide one consolidated invoice covering all contractors supplied.

Recruitment companies also manage the cash flow of their contractors with regular pre-set payment periods, benefiting clients who tend to agree longer settlement terms with the recruiter.

Post-April 2020, we anticipate that this style of relationship will continue to be the predominant model in the market. Recruitment companies with rigid compliance practices will grow as clients become more confident in their services.



Margin-Only

The traditional form of margin-only engagement is where the client engages contractors directly and their recruitment partner invoices separately for their margin. Having just read the 'direct engagement' overview, and its multiple risks, you might question why we are covering this again.

The same risks apply in the traditional margin-only arrangement as described in the direct engagement section. However, a new style of margin-only engagement is now appearing in the market which offers benefits to sectors that are either zero-rated for, or exempt from, VAT. This includes charities and organisations operating in banking and financial services, to name a few.

This new style involves an arrangement known as 'joint employment'.

Joint Employment

Joint employment takes two forms:

i. The recruitment company partners with a payment intermediary and jointly employs the contractors.

The contractors are then supplied to the client using the traditional recruitment company partnership arrangement.

This engagement has benefits for workers deemed within scope of IR35, who receive the requisite employment rights. It also provides a real alternative to the use of umbrella providers.

**STAGE
3****PLAN**

By now you will have a clear understanding of the task in hand and will be in a position to build your plan moving forward. This looks at 3 key steps: **Engagement**, **Policies** and **Finance**.

It also negates the threat imposed by the tax liability transfer provisions by removing potentially high-risk providers from the supply chain. This is achieved while helping the recruitment company ensure that all payments are made as required.

The client still receives protection from employment rights claims as the recruitment company remains between them and the contractor.

ii. The end client 'partners' with a service provider to offer joint employment while the recruitment company provides the contractors on a 'margin-only' arrangement.

The significant benefit of this style of engagement arises when a client operates in a sector that is either VAT-exempt or zero-rated.

In a joint employment arrangement, the actual cost of employment is treated as a disbursement and is therefore not subject to VAT. This is only applied to the margin charged by the agency. Compared with the VAT paid in a recruitment partnership relationship where the agency applies VAT to the value of the whole invoice, the savings are substantial.

In situations where traditional recruitment relationships were used previously, this saving could potentially generate the extra budget required to pay increased rates to the contractors now considered inside IR35, as well as providing a real alternative to the umbrella option.

However, there are still risks associated with this style of engagement:

- **Employment rights**

This arrangement is like a direct engagement, which creates a level of risk with regards to employment rights challenges. However, the use of a joint employment arrangement for contractors distinguishes and differentiates their working arrangement from that of employees.

We believe this should strengthen the defence of any client pursued by a contractor at an employment tribunal, and possibly negate the threat entirely.

- **PAYE tax risk**

As a joint employer, you are dually responsible for the liabilities that arise under this contract, including employment taxes. Should the provider tasked with handling this aspect fail to pay the tax, you become liable.

The Professional Passport compliance accreditation on joint employment requires that providers establish a separate PAYE reference for each arrangement. This is with the expectation that they provide the client with a login to the account, enabling them to ensure all taxes to date have been paid. PAYE should be paid while payments are made to contractors, resulting in the account always showing a credit balance.

- **VAT tax risk**

For legitimate arrangements, the VAT rules are clear. However, we are seeing arrangements entering the market that appear superficial at best. Where the contractual relationships are not set up correctly from the outset, expect arrangements to be challenged, with a VAT bill the likely outcome.

Statement of Work

This seems to be the phrase on everyone's lips at present, with many seeing this as a 'silver bullet' for the new legislation. Our view is very different.

A genuine statement of work is where a company is engaged to deliver a pre-determined and well-defined piece of work for a fixed price, without naming any specific individual as part of the delivery team. The ongoing management of the project must align to the terms specified.

We are seeing many situations where companies are simply reclassifying existing projects as 'statements of work' and, in some cases, naming specific individuals within the terms.

While many large companies will have projects that could be defined through statement of work arrangements, it is not a one-size-fits-all answer to the problem.

We advise companies to seek specialist legal advice to ensure that both the project, and terms specified, constitute a genuine statement of work. Where these engagements are successfully challenged and found to be 'sham' arrangements, significant liabilities will arise.

STEP 3b | POLICIES

Having considered the various issues addressed in previous sections, now is the time to establish future policies for the engagement and assessment of contractors. Agreeing firm rules for the workforce is essential for:

- Simplifying and streamlining compliance practices
- Mitigating tax liability risk
- Avoiding disputes with contractors

The areas you will need to consider and define are:

- i.** Should contractors on assignments inside IR35 be allowed to contract through PSCs?
- ii.** Should we restrict the umbrella providers contractors can operate through?
- iii.** Will we provide status determinations for all our assignments regardless of their status or contractor's operating structure?
- iv.** When advertising contract vacancies, will we advertise the expected IR35 status?



STAGE
3

PLAN

By now you will have a clear understanding of the task in hand and will be in a position to build your plan moving forward. This looks at 3 key steps: **Engagement, Policies** and **Finance**.

Each decision has pros and cons that need to be thoroughly examined. For example, advertising the expected IR35 status of contract vacancies could attract a lot of interest, but also be the source of a dispute should the final status assessment not return the expected outcome.

To assist you with this we have provided guidance in **Appendix 3.2-1**.

The policies that you agree during this stage will later need to be communicated to your recruitment partners so that they can align their practices accordingly.

STEP 3c | FINANCE

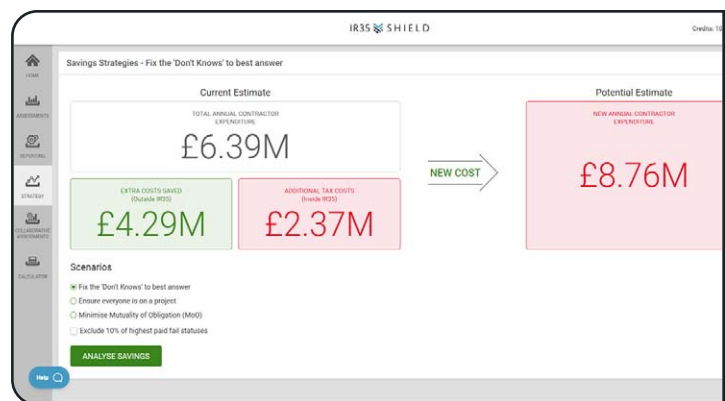
As section 2b said, the financial and practical impact of the Off-Payroll rules isn't limited to the employment tax liability that results from an inside IR35 assessment – neither is it limited to the end-client.

Contractors who have previously operated outside of IR35 also suffer a financial hit if deemed caught by the rules, with the tax hike for many made worse by the loss of travel and subsistence expenses.

As a result, many will be reluctant to agree the new terms offered and will seek opportunities elsewhere. Others will look to renegotiate an improved contract rate to counter the impact of the Off-Payroll rules on their take-home pay.

If you have a heavy concentration of contractors posing a high IR35 risk working on the same project, you need to consider how the project will be affected, and how you will react.

It is for this reason that engaging contractors outside of IR35 is the best outcome for all parties, but only if it can be done legitimately. Agreeing contrived arrangements which can't be realistically applied in practice brings with it a substantial risk of backdated tax, penalties and interest.



With this in mind, there are several questions you'll need to consider when devising a financial plan:

- Could you change your contractors' working practices?
- Which contractors are going to be hard to retain?
- Could you cut rates elsewhere, to cover the increases?
- Where are rates likely to dramatically increase?
- What would be the cost of retention for key people?
- What projects are at risk of delay or cancellation?

For PSC contractors who are inside IR35:

Task: Examine the impact of working practice changes on your contractors' IR35 risk. Look at the current profiles of contractors, particularly those that are borderline inside IR35, and establish whether you want to, and can realistically, implement policy changes in working practices to leave them engaged on an outside IR35 basis.

Having accessed IR35 Shield's reporting dashboard, you can filter the results according to the status determination and examine the working practices areas to understand where there may be scope for IR35 risk-mitigating change. But remember, you can't dress up a 'deemed employee' as one that isn't. You might decide in these instances that you need an employee or an employee-like agency worker.

Task: Work out who is likely to leave. Contractors for whom an inside IR35 contract poses an historical tax risk might not hang around. You may decide that others are more likely to attempt to make an employment rights claim if told they are inside IR35. Consider how the cost of retaining contractors is likely to impact on your budgets, and whether you might have to reduce your flexible workforce.

Task: Consider other ideas. To help fund the costs of keeping the contractors who are inside IR35 perhaps you could cut the rates of those outside IR35? In the current climate, all contractors will be seeking to secure outside IR35 contracts, and some may consider a rate cut to do so.

The IR35 Shield dashboard has a scenario modelling feature to determine how implementing several 'what if' scenarios might impact your bottom line. For example, you might want to forecast the impact on your total annual expenditure of ensuring everyone across your contingent workforce is engaged on a project basis. This can be achieved with the click of a button.

Task: Understand the renegotiation dynamics. Appreciate that the contractor also has extra tax to pay, but that as a general rule, of the extra tax being extracted from the transaction, the split is roughly 80/20 – not in your favour. The contractor may seek to increase the rate, and you will seek to decrease the rate. Identify for each one, where the bargaining power likely sits.

IR35 Shield's Contract Rate Explorer can be used to help you understand the impact of various rate changes on the total cost of hire.



For a detailed explanation please see the video for **Financial & Statistical Reporting on IR35 Shield** on the IR35 Shield youtube channel.

Similarly, the tool can be used as part of renegotiations with contractors, to clearly convey to them your perspective.



For a detailed explanation please see the video for **Strategies & Scenario Modelling on IR35 Shield** on the IR35 Shield youtube channel.

STAGE
4

IMPLEMENT

You now know what you need to do and how to do it. Now it's a case of putting your plan into action. The three key steps for this stage are: **Communicate, Alignment and Monitoring.**

We explain how to effectively put your plan into action. This process will include input from both your recruitment partners and your contractors. What you require from each, and how you should go about achieving this, we detail below.

STEP 4a | COMMUNICATION

Communicating and being completely transparent with your contractors is an essential step in this process for several reasons. Primarily, it provides a platform where you can work together to resolve the challenging time ahead, ensuring that you have a greater chance of achieving a mutually beneficial arrangement. Failing this, it enables you to gauge their plans with respect to their deemed IR35 assessment, and plan accordingly with enough notice.

There are also potential benefits with regards to retaining and attracting contractors. Those deemed within scope of IR35 may feel more compelled to stay if you are shown to have carried out a fair assessment and considered their engagement in detail, rather than conducting a blanket assessment.

Communicating with your contractors could give you a positive reputation within the contracting sector, making working with your company a more appealing prospect to contractors, regardless of IR35 status.

Step 1: Communicate

Start speaking to those affected (inside IR35) in small groups. Explain their deemed status determinations and how you arrived at each decision. Then, find out what they intend to do.

Agree with each affected contractor what the plan is going forward. Use their feedback to inform and update your model of expected outcomes and refine your strategy accordingly to ensure that you are meeting budget targets.

Step 2: Implement

You'll want to provide comfort as early as possible to your contractors found to be outside IR35. This can be achieved by issuing each of them with a Status Determination Statement (SDS).

IR35 SHIELD
THE IR35 CERTIFICATION STANDARD

Status Determination Statement

As per Chapter 10 of the Income Taxes and Earnings Act (ITEPA) 2003, this document certifies that the engagement has been assessed.

Status Determination:
**IR35 does not apply
(Outside IR35)**

Assessment number:
5279068

The condition in section 61M(1)(d) is NOT met in the case of the engagement.
This document explains the full reasons for that determination.

Assessment date:
01 August 2019

Company:
John Doe Limited

Assessment completed by **John Doe**
On behalf of **John Doe Limited**powered by IR35 SHIELD



For a detailed explanation please see the video for **Status Determination Statements on IR35 Shield** on the IR35 Shield youtube channel.

IR35 Shield automatically generates an SDS after the completion of each assessment. All you need to then do is access the IR35 Shield dashboard, find the relevant assessment and send an automated email containing the SDS to the contractor.

If you plan to offer outside IR35 contractors reduced rate terms, make sure to do so before starting this step.

Contractors who are inside IR35 and not staying with the company will require termination notices.

You may also decide to serve termination notices to inside IR35 contractors who are staying on under an alternative method of working. This is one of the key policy decisions we advised you to make in section 3b.

From 6 April 2020, the Off-Payroll rules apply to all open engagements. As a result, all outstanding invoices for contractors deemed inside IR35 must be paid by the end of March 2020 to avoid historical tax risk. March 2020 is also the latest you can ensure everyone within your workforce is working within a compliant structure.

STEP 4b | ALIGNMENT

Having established your policies for Off-Payroll compliance, these now need to be implemented and agreed with your recruitment partners. Remember, establishing compliant practices will not guarantee compliance under the Off-Payroll rules.

As the end-client, you are also responsible for ensuring that others in the supply chain play by the rules. This step is crucial to ensuring your recruitment partner's practices are aligned with yours, which prevents HMRC from exploiting any inconsistencies should it decide to investigate an engagement.

It's doubly important because your recruitment partner will also play a key role in implementing changes that rid your supply chain of parties that might jeopardise your compliance efforts. This could expose you to:

- Tax liability risk resulting from the Off-Payroll rules' tax liability transfer provisions
- Punishment under the Criminal Finances Act 2017, which targets bodies failing to prevent tax evasion

We have detailed below several policy measures that, if implemented, you are advised to communicate to your recruitment partners. Some of these are accompanied by further factors for consideration and actions to be taken.

Which policies do recruitment partners need to be made aware of?

- Notify recruitment partners of your intention to move to an accredited umbrella provider Preferred Supplier List (PSL).
 - Confirm the consequences for not following the policy
 - Confirm your verification process to ensure the policy is applied robustly
 - Issue a copy of the new contractual terms that will apply
- Confirm your policy relating to engaging PSC contractors where the assignment falls inside IR35.



STAGE
4

IMPLEMENT

You now know what you need to do and how to do it. Now it's a case of putting your plan into action. The three key steps for this stage are: **Communicate, Alignment and Monitoring.**

- Confirm the date that the new requirements will become effective.
 - We would suggest allowing a minimum of one month before making it mandatory for all new contractors. This allows the recruitment company time to notify providers who will fall off their PSLs. Providers can then seek the required compliance accreditation.
- Confirm which contractors currently operating through a PSC will be operating inside IR35 post April.
 - Agree a termination date and re-offer based on their final operating structure.
- Confirm which contractors are operating through high-risk providers.
 - Advise that they be moved immediately.
- Confirm which contractors are operating through medium-risk providers.
 - Advise that they be moved at their next renewal or extension, or no later than a specified date.
- Confirm your operating structure policy relating to new assignments inside IR35.
 - Agree rates for contractors currently engaged directly and move new agreed operating structure arrangement.

In addition to the above, it pays to keep your recruitment partners aware of any other policies that you have decided to implement. Complete transparency leaves little room for potential compliance errors.


STEP 4c | MONITORING

The final step in the Shield Passport Process is monitoring. Off-Payroll compliance is an ongoing process that isn't over once an initial status assessment has been completed and an engagement begins. Due in part to the complex and ever-evolving nature of the legislation, clients and their contractors could unwittingly find supposedly outside IR35 engagements within scope of the legislation a few months down the line.

Fortunately, with IR35 Shield, the measures taken to avoid this scenario and its consequent tax risk are relatively straightforward and simple.

Monitor the law and your risk

Employment status case law is constantly evolving, and though it's rare, court cases can emerge which set new precedents. As a result, staying up-to-date with the latest IR35 tribunal cases and any potential resulting changes to the law is imperative - it could affect the risk profile of your existing outside IR35 contractors.



THE IR35 CERTIFICATION STANDARD

Status Determination Statement

As per Chapter 10 of the Income Taxes and Earnings Act (ITEPA) 2003, this document certifies that the engagement has been assessed.

Status Determination:

IR35 does not apply (Outside IR35)

The condition in section 61M(1)(d) is NOT met in the case of the engagement. This document explains the full reasons for that determination.

Assessment number:

5279068

Assessment date:

01 August 2019

Company:

John Doe Limited

Assessment completed by **John Doe**
On behalf of **John Doe Limited**

powered by **IR35 SHIELD**

ContractorCalculator is generally first to react to the latest tribunal cases, and often provides in-depth analysis highlighting the implications of each case for contractors and their clients.

We recommend that you also maintain records of the status factors for each of your outside IR35 contractors, so that if an area of case law is likely to change, you can quickly identify who might be affected and what the risk is to your organisation.

IR35 Shield also keeps on top of the latest developments in IR35 case law, aided by its extensive network of experts established over the last 20 years. If new precedents are likely to be set, IR35 Shield for Business customers will be notified, and IR35 Shield can be used to establish the likely risk to their organisation.

Monitoring the workforce

New case law precedents don't need to be set for clients to encounter heightened IR35 risk midway through a contract. During long engagements, there is the danger that the working relationship may deviate from the arrangement agreed at the beginning of the contract, with the resulting working practices suggesting an inside IR35 position.

Some contractors have been known to neglect their compliance duties under IR35 while working under a supposedly outside IR35 contract. Mistakes involved with this include:

- Renewing contracts without re-specifying the changing scope, or new project - remember, contractors are hired on a project basis
- Agreeing to work for a minimum amount of time, rather than being paid for work done
- Undertaking work outside of what is stipulated in the contract – a solid indicator of control over the worker

The above are all indicators of an inside IR35 arrangement. Should this happen under the Off-Payroll rules, it would impose a substantial tax risk on the client, especially if the contractor has been engaged for a long period of time.

It's relatively easy to negate this risk. The first step is to reassess your contractors for IR35 upon each contract renewal. If the working conditions are different from what was previously agreed, this needs to factor into the assessment, while the contract should also be freshly scoped and drafted.

Monitoring your workforce is also recommended to identify and address IR35 risk. IR35 Shield saves all existing and historical contractor engagements, displaying this data as the risk profile for your workforce, highlighting any areas of concern that you may wish to address.

But remember, this risk profile is only accurate if the working practices match the answers provided in each status assessment. If considered IR35 assessments have been undertaken for each contract renewal, you will have a clear and accurate overview of your IR35 risk.

New hires

Beyond April 2020, ongoing compliance for new hires can be achieved by following a simple four-step process:

- i. Establish a baseline assessment based on a 'role'**
- ii. Advertise with an 'indicative assessment' status**
- iii. Fully assess status before the contractor signs a contract**
- iv. Issue a Status Determination Statement before the contract starts**

These four steps can be easily achieved in the IR35 Shield dashboard using the Collaborative Assessments technology.

Existing hires

For existing hires, clients must ensure that agencies are using a compliant payment structure for contractors who are inside IR35.

Appendix 1.1-1

Suggested template for email to recruitment partners with spreadsheet attachment

Dear [insert name],

As part of our preparation for the Off-Payroll Working rules, coming into effect in April 2020, we are carrying out an audit of our current contractors and their operating structures.

This information is essential for us to fully consider and understand the potential impacts that the rules will have on our business, and the next steps that need to be taken.

Please complete the attached spreadsheet with the details of each of the currently active contractors you supply to us as of [insert date].

You will see separate tabs for the following:

Limited Company [PSC]

This covers all contractors who are contracting via their own limited company, generally referred to as a Personal Service Company (PSC).

Umbrella Company

This covers all contractors who are contracting via a payment intermediary operating PAYE on their earnings, often referred to as an umbrella company.

Agency PAYE

This covers all contractors that are paid by yourselves on PAYE.

Self-Employed

This should include all workers engaged as self-employed either directly or through a payment intermediary. Where a payment intermediary is involved in the contractual chain please provide their details.

Other

This should cover all contractors that have not been detailed in the sections above. There should be a full description of your understanding of the arrangements.

We require the information provided back to us by no later than [insert date].

Thank you for your assistance.

Appendix 1.3-1

Assessment Outcome	Operating Structure Profile	Impact on Rates	Actions
Inside IR35	High percentage of contractors operate through an umbrella company or Agency PAYE, and significantly fewer trade via PSCs.	The fact that the majority of your contractors are already operating through umbrella companies or Agency PAYE suggests that your rates are already aligned.	<p>Consider how you are going to deal with your PSC contractors.</p> <p>You can provide notice and offer them the same role, only with the requirement that they operate through an umbrella company or PAYE arrangement. Alternatively, you could find replacement contractors.</p> <p>Ensure that any new inside IR35 engagements are only agreed with contractors operating either via an umbrella company or Agency PAYE.</p> <p>Best practice would be to provide a Status Determination Statement to the contractors regardless of their operating structure.</p>
Inside IR35	High percentage of contractors operate through their own PSC, with very few operating through an umbrella company or Agency PAYE.	<p>Having most of your workers operating through their own PSCs suggests that you might encounter some issues.</p> <p>If the contractors have been taxing themselves as though they were outside IR35, your 'inside IR35' assessment will result in a 25%-30% reduction to their income.</p> <p>Serious consideration will need to be granted to this group and their rates in relation to your company budgets.</p> <p>We suggest that project critical workers are considered a priority to ensure continuity.</p>	<p>Decide what you can do on rates to address the shortfalls in contract income resulting from 'inside IR35' assessments.</p> <p>Where budgets are tight, address project critical or specialist contractors first.</p> <p>Decide if you want them to move to an umbrella or Agency PAYE, or whether you will permit payment to their PSC via a 'fee-payer'.</p> <p>Contractors are generally worse off working an inside IR35 assignment through a PSC under the new rules.</p> <p>Ensure that any new inside IR35 engagements are only agreed with contractors operating either via an umbrella company or Agency PAYE.</p> <p>Best practice would be to provide a Status Determination Statement to the contractors regardless of their operating structure.</p>
Outside IR35	Irrelevant	None	Ensure you engage to finalise the status determination statement.

Appendix 3.2-1

Question	Risks	Guidance
Should contractors on assignments inside IR35 be allowed to contract through PSCs?	<p>Where the PSC is being paid by a payment intermediary operating below the recruitment company, this could increase the risk of non-compliance.</p> <p>Where the 'fee-payer' is the recruitment company, with no other intermediary involved, there is a lower risk of non-compliance.</p>	<p>Contractors working on inside IR35 assignments will take home less money when operating through a PSC than if they were working via an umbrella company or agency PAYE, so it is reasonable to question why they would want this arrangement.</p> <p>If the assignment is short-term, and they generally undertake outside IR35 contracts, then this might explain it as a matter of convenience.</p> <p>Payment intermediaries acting as 'fee-payers' could increase the risk of non-compliance. We have seen many in the public sector that have ignored client determinations and concluded a different status outcome, before paying workers without deducting tax via PAYE.</p> <p>We would advise that only in exceptional circumstances should a PSC be engaged on an assignment inside IR35.</p>
Should we restrict the umbrella providers that contractors can operate through?	<p>Not defining the umbrellas that are allowed in your supply chain will significantly increase the risk of non-compliance.</p> <p>It also increases the risk of a 'rogue' umbrella subcontracting to PSCs and ignoring status determinations; which will result in liabilities coming back up the supply chain.</p>	<p>We strongly recommend making it a contractual obligation that only compliance accredited providers are used in the supply chain.</p> <p>Professional Passport is the only compliance accreditation supported by an insurance policy and so offers arguably the highest level of compliance assurance.</p> <p>Making it a contractual obligation is not sufficient; you must also confirm that the obligation is being adhered to. Professional Passport offers an online checker for this.</p> <p>Using the contractor's NI number, it confirms if that worker is active with one of its approved providers.</p> <p>This simple tool ensures your contractual obligations are being followed. Any failings are quickly identified and can be promptly resolved.</p>
Will we provide status determinations for all of our assignments regardless of their status or the contractor's operating structure?	<p>The legislation requires that status assessments be provided whenever a worker engaged via a PSC undertakes an assignment, to ensure that the correct tax is applied.</p> <p>However, it is likely to be the status determination that drives the operating structure a contractor operates through. Without providing these for all assignments there is a risk that contractors may seek to challenge the status which could be costly.</p>	<p>We would suggest best practice would be to provide status determinations for all assignments, particularly through the early stages of the legislation's adoption.</p> <p>Providing status determinations from the outset makes clear to the contractors the working arrangements. It also significantly reduces the risk of challenges from workers who otherwise might feel that they are being forced into a higher charging tax structure.</p>

Glossary

Collaborative Assessments

An IR35 Shield feature which splits the status assessment into sections concerning the written contract, the working conditions and the contractor's limited company. These sections can be completed individually by those best placed to provide the correct answers to the questions posed, ensuring an accurate assessment.

Components

IR35 Shield status assessment sections that have been completed and saved to the system. For example, a component might be created after answers have been provided in accordance with a set of working conditions that a group of contractors are subject to. This component can then be inserted into future status assessments where relevant.

Contractor 'role'

In other words, a contractor engagement profile that the client identifies and places a number of its contingent workforce into for the purposes of creating indicative status determinations. For example, a 'role' might be created for a group of contractors who have the same contract template.

Deemed employee

The term used by HMRC to identify contractors in engagements deemed to be within scope of IR35 or the Off-Payroll rules.

Financial reports

Encompassing financial information inputted during status assessments, IR35 Shield creates financial reports to illustrate the client's potential extra costs, or risks, depending on status outcomes. Financial reports are based on information such as contractor day rates, expenses and other financial information.

Indicative status determination

A status determination provided by IR35 Shield, based on information gathered from one or two components. This doesn't provide a conclusive determination, as at this stage the assessment hasn't been completed in full but is intended to inform clients of an engagement's likely IR35 status and help guide their compliance actions.

Glossary

Lower level contract

The contract that the contractor's limited company is engaged in, typically with a recruitment agency.

Reasonable care

A concept introduced to the Off-Payroll rules to ensure that clients conduct comprehensive, considered status assessments. It is a legislative requirement that clients take reasonable care when making their status assessments. If they fail to do so, they assume the tax liability risk otherwise held by the fee-payer.

Statistical reports

IR35 Shield analyses data gathered from status assessments to highlight areas where patterns may be forming across the workforce, flagging up any potential compliance issues that the client can then seek to address.

Status Determination Statement (SDS)

The Off-Payroll legislation requires that clients provide an SDS to contractors upon assessing the IR35 status of their engagement. This is a document which details the deemed status and provides reasons for having reached the outcome. Crucially, it must demonstrate reasonable care. Upon each completed assessment, IR35 Shield creates a ready-made SDS, providing a comprehensive overview of the assessment, thus satisfying the reasonable care requirement.

Upper level contract

The contract that the client and their recruitment partner are engaged in.



The Only Insurance Backed
Provider Compliance Review

COMING SOON
**Our unique Supply Chain
Verification Tool**
Simplifying compliance for
Off-Payroll Working



THE MOST IMPORTANT QUESTION YOU SHOULD ASK

If you have got the compliance assessment wrong and we suffer a loss do you accept any liability?

Professional Passport's answer is that we are the only provider compliance assessment that is backed by a blue chip insurance guarantee. In the unlikely event that we did get it wrong, and in over 10 years we haven't so far, and you suffer a loss through debt transfer you have a £5m insurance policy to claim against. What do the others say?

FREE AGENCY MEMBERSHIP

Become a member of Professional Passport to unlock a wide range of benefits including our insurance backed guarantee, support at client events and regular news and updates on the hottest topics affecting the sector.



Our Agency Members badge demonstrates your commitment to supply chain compliance to your clients and ensures adequate processes for Criminal Finances Act.

IR35 SHIELD

THE IR35 CERTIFICATION STANDARD

Supercharge your compliance and minimise your risk

Cloud-driven, industry standard IR35 compliance solution for business and individual contractors. Quickly and accurately prove you are IR35 compliant.



WHAT IS IR35 SHIELD?

IR35 Shield for Business is a web-based software solution for firms that need to manage, analyse and understand their IR35 compliance. By leveraging the power of the latest state-of-the-art cloud technology, our software allows your business to assess your contingent workforce in high volume, determining a status and generating downloadable Status Determination Statements for thousands of contractors in a matter of minutes.

FEATURES & BENEFITS

Free unlimited assessments

IR35 Shield for Business and IR35 Shield Manager allow you to assess IR35 Shield for Contractors members for free. All assessments are free for IR35 Shield for Contractors members and insurance is included.

Insurance backed

Comprehensive tax defence and liability insurance included as standard for IR35 Shield for Business, IR35 Shield Manager and IR35 Shield for Contractors.

Audit your workforce

Quickly invite all your contingent workers to complete an online assessment, send reminders and guide them through the assessment pipeline.

Get real-time compliance

Use our reporting tools to quickly identify potential issues with your IR35 compliance, and model scenarios to help you better understand your position.

Demonstrate reasonable care

Ensure you've taken reasonable care in determining your workers' IR35 status by using our comprehensive online assessment to collect detail from over 100 questions.

Use Collaborative Assessments

Our Collaborative Assessments module increases confidence and accuracy, whilst easing the admin burden on both your firm and your contingent workforce.

To book your demo please visit:

www.ir35shield.co.uk/getir35shield



Email: info@ir35shield.co.uk | **Online:** www.ir35shield.co.uk/contactus
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