



RICKMANSWORTH SCHOOL

IR35 Policy

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Table of Contents

OVERVIEW	1
Purpose	1
Review Process	1
1. Introduction	2
2 Matters to consider	3
3 Process	4
APPENDIX A - Action Chart	7
APPENDIX B – STATUS DETERMINATION STATEMENT in scope	12
APPENDIX C – STATUS DETERMINATION STATEMENT out of scope	14

OVERVIEW

Purpose

The purpose of this policy is to set out the school's processes and policy to ensure compliance with the IR35 (off payroll working) rules.

A reference copy of this document is kept on the shared drive and it will be brought to the attention of all members of staff.

Review Process

This document will be reviewed in accordance with our policy review process every three years or on the introduction of new or amended relevant legislation.



Tony Walker
CHAIR OF GOVERNORS



Matthew Fletcher
HEADTEACHER

1. Introduction

- 1.1. The intermediaries' legislation (commonly known as IR35) was introduced in 2000 to ensure that individuals who work off-payroll through their own company, and who would have been taxed as employees had they been engaged directly, pay employment taxes on their income
- 1.2. The legislation was reformed in April 2017 to ensure that individuals who work through their own company pay employment taxes in a similar way to employees where they would be employed were it not for the personal service company (PSC) that they work through. This measure does not create any new pension obligation and statutory payments and other employment rights.
- 1.3. The legislation applies to workers who provide their services to the School through an intermediary, which can be the worker's own limited company, such as a PSC, a partnership of which the worker is a partner, or another individual. The legislation does not affect contracts which are for the supply of goods, for example purchasing stationery from a local company. It also does not apply if the School engages with a large PLC and/or a company where the School has ascertained the workers are PAYE employees of the company.
- 1.4. It might affect roles such as:
 - Specialist Tutors/ Supply Teachers
 - Sports or other coaches
 - Counsellors
 - Specialist advisors that are brought into the School
 - A commission for a specific piece of work such as building a website.
 - Agency teachers who are not employed by the agency supplying them
- 1.5. The off-payroll rules apply from the 6 April 2021 and cover:
 - All public sector organisations (i.e. state-funded schools)
 - Private sector companies (i.e. independent schools) that meet 2 or more of the following conditions:
 - Have an annual turnover of more than £10.2 million
 - Have a balance sheet total (i.e. the total amounts shown as assets before deducting liabilities) of more than £5.1 million
 - Have more than 50 employees

- Other private sector organisations that aren't companies, with an annual turnover of more than £10.2 million

1.6 The responsibility for deciding if the legislation should be applied sits with the School the worker is supplying their services to (the client). Where the rules apply, the School is required to calculate Income Tax and National Insurance contributions (NICs) and pay them over to HMRC. These amounts will be deducted from the intermediary's fee for the work provided through payroll.

2 Matters to consider

2.1 HMRC uses the following factors to determine IR35 status:

1. Substitution

If the contractor or the end business is able to send a substitute to complete works in the contractors' place, this suggests the contractor is not providing a personal service, and the worker isn't a disguised employee.

2. Control

If an end business controls the workload of the contractor or how the work is carried out, it suggests the person is inside IR35 as they are not providing a specialist service as a contractor.

3. Mutuality of obligation (MOO)

If both parties pass the substitution and control tests, it is unlikely that MOO applies as it will be deemed outside IR35 anyway. MOO can be present in both contracts of service and contract for service.

4. Risk – If a contractor can make a profit or a loss i.e. financial risk this would suggest that the contractor is outside IR35.

2.2 Other matters to consider:

Equipment – HMRC often tries to argue that if equipment is provided by the end business, and the contractor does not provide their own, the worker may be a disguised employee

Financial risk – self-employed contractors usually take a degree of financial risk, like any other business. If the contractor is responsible for errors made during the contract, and would be required to rectify them in their own time this would suggest that the contractor is outside IR35. There is also usually a requirement to have [professional indemnity insurance](#)

The way the contractor is paid – self-employed people are often paid on a project basis, which might mean payment is made when the work is completed or at particular project milestones

‘Part and parcel’ of the organisation – if contractors become so ingrained that they become part of a company’s structure, with people reporting to them for example, this points to employment rather than self-employment

Exclusivity –Typically, the self-employed can work for multiple clients at once

Intentions of the parties – the contract should make sure the relationship between contractor and client is one of supplier and customer, but this should be genuine. If HMRC found the actual intended relationship is more like an employee and employer, it will ignore the contract

Business ‘on your own account’ – essentially this determines whether you’re actually running your business as a business. If you have things like a business website, a dedicated office space, and even employees, you could be seen as operating a business and not offering your services in the same way as an employee

3 Process

3.1 The following do not need to complete a check:

- a) Rickmansworth School employees
- b) Employees of larger companies engaged by the school – where the school has ascertained that all workers are treated as employees.
Rickmansworth School will write to all contractors/suppliers who engage in services and ask for confirmation in writing that workers are engaged as employees.
- c) Companies providing supplies - paper, books, equipment, etc.
- d) Agency workers who are provided by a limited company and the company has confirmed that the worker is classed as one of their employees. The School will write to these agencies on an annual basis and ask for confirmation in writing:

‘Rickmansworth School, as a public sector organisation, must comply with the ‘Intermediaries Legislation (IR35). Can you please, therefore, confirm that all workers supplied to us by your company are paid through PAYE (i.e. they pay tax and NI as applicable)’

3.2 The HMRC Status Checker (CEST) must be completed for all other workers and a copy retained on file:

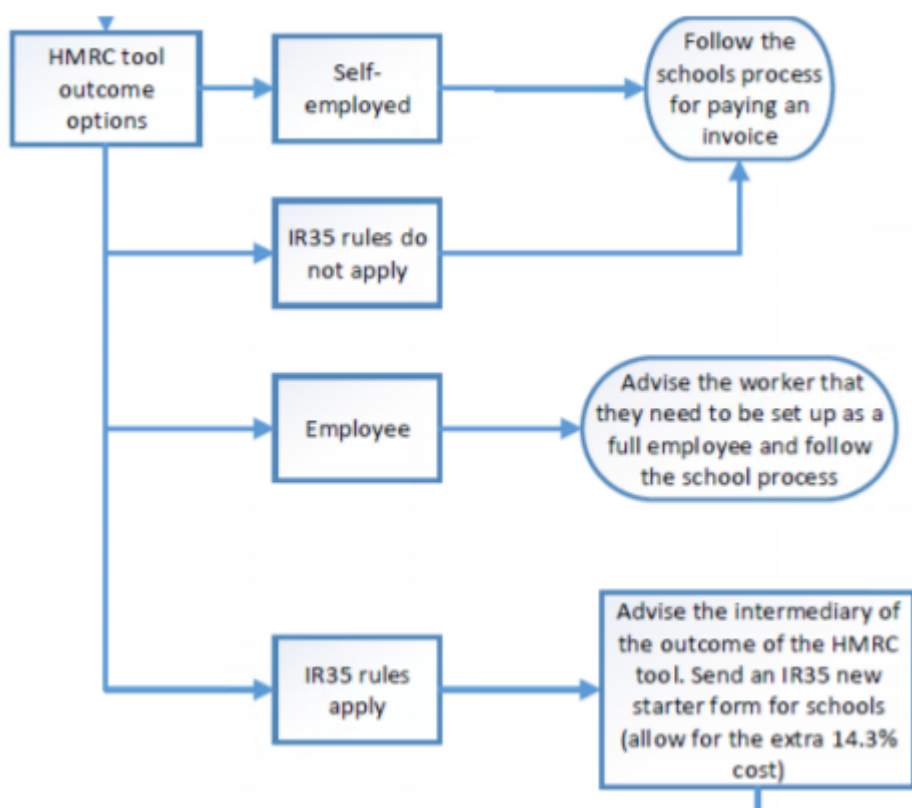
<https://www.gov.uk/guidance/check-employment-status-for-tax>

3.3 Once the determination has been obtained the School must:

- a) Pass the determination, in the form of a status determination statement (SDS), and the reasons for the determination to the worker and the person or organisation you contract with
- b) Make sure detailed records are kept of the employment status determinations, including the reasons for the determination

- c) Where an “undetermined status” is generated by the CEST, the School will need to come to its own determination on the status of a worker.

3.4 The outcome from the assessment is likely to be one of the following four options:



- 3.5 Template letters have been attached at Appendix B and C which should be sent to the intermediary and the worker in the event that the IR35 rules do and do not apply.
- 3.6 In the event that the worker disputes the School’s determination, the worker will be able to raise a dispute within 45 days of receiving the determination document. From April 2021, Herts County Council is providing this dispute service to all schools within Hertfordshire.
- 3.7 Further guidance on specific scenarios is attached at Appendix A.

APPENDIX A - Action Chart

Type of worker	How is the service provided to your school / academy?	Who invoices you for the work?	Worker's status under IR35	Action under IR35
Agency workers hired via an agency as an employee of the agency	The worker is an employee of the agency.	The agency	No IR35 assessment is required because the worker's pay is already subject to PAYE Tax/NI by the agency	No IR35 assessment is required. Obtain written confirmation from the agency that the worker is classed as one of their employees and consequently that their pay will always be processed through the agency's payroll with PAYE Tax/NI deducted
Limited company workers hired via an agency	The worker's service is provided through the agency by the worker's limited company	The worker's company invoices the agency and then the agency invoices the school	An IR35 assessment is required to determine if the worker falls inside or outside IR35.	If inside IR35: If the worker is assessed as being inside IR35 for this contract, the School must write to the agency informing them that all future pay for the worker for this contract must be paid by the agency through the agency's payroll and subject to the deduction of PAYE Tax / NI. The agency will need to confirm in writing to us (and to the worker) that they will do this. The agency will still invoice us for the total amount including any VAT, which we can continue to pay gross to the agency. If the agency fails to comply we must immediately terminate the engagement. If outside IR35: If the worker is assessed as being outside IR35 for this contract, no PAYE Tax/NI need be deducted from the payment. We must send a copy of the IR35 assessment result to the agency. The agency will still invoice us for the total amount including any VAT, which we can continue to pay gross to the agency.
Umbrella company workers hired via an agency	The worker's service is provided through the agency by an umbrella company	The umbrella company invoices the agency and then the agency invoices the school	The School needs to identify whether the umbrella company is FCSA approved	Must perform an IR35 assessment. If pay is already subject to PAYE Tax/NI by the umbrella company: Obtain written confirmation from the agency that the worker is classed as an employee of the umbrella company and consequently that their pay will always be processed through

				<p>the umbrella company's payroll with PAYE Tax/NI deducted. If this is the case, then no further action should be taken. The agency will still invoice us for the total amount including any VAT, which we can continue to pay gross to the agency.</p> <p>If pay is not already subject to PAYE Tax/NI by the umbrella company and the worker is inside IR35: If the worker is assessed as being inside IR35 for this contract, we must instruct the agency to inform the umbrella company that the worker is inside IR35 and that all future pay for the worker for this contract must be paid through the umbrella company's payroll and subject to the deduction of PAYE Tax / NI. The agency will still invoice us for the total amount including any VAT, which we can continue to pay gross to the agency. If the agency fails to comply we must immediately terminate the engagement.</p> <p>If pay is not already subject to PAYE Tax/NI by the umbrella company and the worker is outside IR35: If the worker is assessed as being outside IR35 for this contract, no PAYE Tax/NI need be deducted from the payment by the umbrella company. We must send a copy of the IR35 assessment result to the agency for onward forwarding to the umbrella company. The agency will still invoice us for the total amount including any VAT, which we can continue to pay gross to the agency</p> <p>To make sure we use a worker engaged on a compliant umbrella scheme, the School should ensure that it uses umbrella companies that are regulated by the Freelancer & Contractor Services Association (FCSA).</p>
<p>Limited company workers hired directly by the School with no agency involvement</p>	<p>The worker's service is provided directly to the School by the worker's limited company, with no involvement from an agency or from any</p>	<p>The worker's limited company invoices the School</p>	<p>An IR35 assessment is required to determine if the worker falls inside or outside IR35.</p>	<p>Must perform an IR35 assessment.</p> <p>If inside IR35: If the worker is assessed as being inside IR35 the worker's company will still invoice us for the total amount (which may include VAT). However, we must ensure that for this contract the invoice amount (excluding VAT) must be paid through the School's payroll and subject to the deduction of PAYE Tax/NI. The payroll net payment must be paid to the bank account of</p>

	<p>other third party.</p>		<p>the limited company. VAT will be paid separately outside of the payroll to the bank account of the limited company. If the worker's limited company refuses to accept these conditions you must immediately terminate the engagement.</p> <p>If outside IR35: If the worker is assessed as being outside IR35 no PAYE Tax/NI need be deducted from the payment. We must send a copy of the IR35 assessment result to the worker's company. The worker's company will still invoice us for the total amount including any VAT, which you can continue to pay gross to the worker's company.</p>
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<p>Umbrella company workers hired directly by the School with no agency involvement</p>	<p>The worker's service is provided directly to the School by the umbrella company, with no involvement from an agency or other third party.</p>	<p>The umbrella company invoices the School</p>	<p>An IR35 assessment is required to determine if the worker falls inside or outside IR35</p>	<p>Must perform an IR35 assessment.</p> <p>If pay is already subject to PAYE Tax/NI by the umbrella company: Obtain written confirmation from the umbrella company that the worker is classed as an employee of the umbrella company and consequently that for this contract that their pay will always be processed through the umbrella company's payroll with PAYE Tax/NI deducted. If this is the case, then no further action need be taken. The umbrella company will still invoice us for the total amount including any VAT, which we can continue to pay gross to the umbrella company</p> <p>If pay is not already subject to PAYE Tax/NI by the umbrella company and the worker is inside IR35: If the worker is assessed as being inside IR35 for this contract, the umbrella company will still invoice us for the total amount (which may include VAT). However, we must ensure that for this contract the invoice amount (excluding VAT) must be paid through your School's payroll and subject to the deduction of PAYE Tax/NI. The payroll net payment must be paid to the bank account supplied by the umbrella company. VAT will be paid separately outside of the payroll to the bank account supplied by the umbrella company. If the umbrella company refuses to accept these conditions we must immediately terminate the engagement</p> <p>If pay is not already subject to PAYE Tax/NI by the umbrella company and the worker is outside IR35: If the worker is assessed as being outside IR35 for this contract, then no PAYE Tax/NI need be deducted from the payment. We must send a copy of the IR35 assessment result to the umbrella company. The umbrella company will still invoice us for the total amount, which we can continue to pay gross to the umbrella company</p>
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<p>Sole traders (self-employed people) or partnerships hired directly by the School with no agency involvement</p>	<p>The worker's service is provided directly to the School by the sole trader (i.e. a self-employed worker) or partnership</p>	<p>The sole trader (self-employed worker) or partnership invoices the School</p>	<p>An assessment is required to determine if the worker is employed or self-employed.</p>	<p>Must perform an assessment to determine whether the worker is employed or self-employed using the HMRC status determination checker.</p> <p>Employed: the individual must be included on the School's payroll and subject to the deduction of PAYE Tax/NI. The worker will be required to be included on the Single Central Record as an employee.</p> <p>Self-employed: If the worker is assessed as being self-employed for this contract, no PAYE Tax/NI need be deducted from the payment and they can be paid through the BACS process.</p>
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APPENDIX B – STATUS DETERMINATION STATEMENT in scope

(tax and NI needs to be deducted)

WORKER

<THIS STATUS DETERMINATION STATEMENT (SDS) MUST BE SENT TO THE WORKER – By email is sufficient>

Date:

Dear XXXX,

Engagement between XXXXX School and XXXX for the provision of services

We have carried out the HMRC Check Employment Status for Tax Test on your engagement as XXXX with XXXX School and can confirm the following result:

Off-payroll working rules (IR35) apply

The reasons for this result are as follows:

Insert reasons taken directly from ‘Why you are getting this result’ on the result page of the test

As a result of this your invoices will be paid after deducting Tax and National Insurance contributions.

If you wish to dispute this outcome please email and you will receive a response within 45 days of receipt.

Signed:

Print Name:

Position:

INTERMEDIARY

<THIS STATUS DETERMINATION STATEMENT (SDS) MUST BE SENT TO THE FIRST COMPANY IN THE SUPPLY CHAIN (INTERMEDIARY) - By email is sufficient >

Date:

Dear XXXX,

Engagement between XXXXX School and XXXX for the provision of services

We have carried out the HMRC Check Employment Status for Tax Test on your worker's engagement as XXXX with XXXX School and can confirm the following result:

Off-payroll working rules (IR35) apply

The reasons for this result are as follows:

Insert reasons taken directly from 'Why you are getting this result' on the result page of the test

As a result of this your invoices will be paid after deducting Tax and National Insurance contributions.

If you wish to dispute this outcome please email: and you will receive a response within 45 days of receipt.

Signed:

Print Name:

Position:

APPENDIX C – STATUS DETERMINATION STATEMENT out of scope

(no tax and NI deducted)

WORKER

THIS STATUS DETERMINATION STATEMENT (SDS) MUST BE SENT TO THE WORKER

By email is sufficient

Date:

Dear XXXX,

Engagement between (School??) and XXXX for the provision of services

We have carried out the HMRC Check Employment Status for Tax Test on your engagement as XXXX with XXXX School and can confirm the following result:

Off-payroll working rules (IR35) do not apply

The reasons for this result are as follows:

Insert reasons taken directly from 'Why you are getting this result' on the result page of the test

As a result of this your invoices will be paid without deducting any Tax and National Insurance contributions.

If you wish to dispute this outcome please email and you will receive a response within 45 days of receipt.

Signed:

Print Name:

Position:

INTERMEDIARY

THIS STATUS DETERMINATION STATEMENT (SDS) MUST BE SENT TO THE FIRST COMPANY IN THE

SUPPLY CHAIN (INTERMEDIARY) - By email is sufficient

Date:

Dear XXXX,

Engagement between (school ??) and XXXX for the provision of services

We have carried out the HMRC Check Employment Status for Tax Test on your worker's engagement as XXXX with XXXX School and can confirm the following result:

Off-payroll working rules (IR35) do not apply

The reasons for this result are as follows:

Insert reasons taken directly from 'Why you are getting this result' on the result page of the test

As a result of this your invoices will be paid without deducting any Tax and National Insurance contributions.

If you wish to dispute this outcome please email and you will receive a response within 45 days of receipt.

Signed:

Print Name: