

OFF-PAYROLL WORKING POLICY

1. OVERVIEW AND PURPOSE

- 1.1 The Off-Payroll Working Policy (the policy) sets out the rules and procedures to ensure that an individual providing services to the University, who works like an employee, is identified as a worker of the University and is subject to PAYE and NIC through the University's payroll (or via Reed Managed Services if a temporary worker).
- 1.2 The University engages individuals from time to time to deliver services which meet the needs of the Institution. The policy sets out rules to establish when an individual must be engaged as a worker on the University's payroll (or via Reed Managed Services if a temporary worker), and when they may be engaged as a supplier under a service contract.
- 1.3 The policy sets out the specific responsibilities to Heads of School and Directors of Professional Services (Budget Holders), Engaging Managers, the Director of Finance and the HR IR35 team.
- 1.4 The policy must be followed to ensure the University meets its tax and legal obligations when engaging workers.
- 1.5 In addition to this policy document, the University has issued a process document and a process map which clearly sets out the steps that must be followed, and specific roles and responsibilities for all individuals involved in the process of engaging workers and contractors as well as Budget Holders.

2. SCOPE

- 2.1 This Policy applies across all of the University, without exception, including all Schools, Divisions and subsidiary undertakings.
- 2.2 Exceptionally if the Governing Body of a subsidiary undertaking deems this policy not fit for the purposes of the subsidiary due to its specific circumstances and/or obligations then it may seek approval from the University's Council of an alternative policy. If an alternative policy is not approved this policy applies to the subsidiary undertaking.
- 2.3 The policy applies to all individuals providing services or being considered as a provider of services to the University. The IR35 assessment and rules apply when the worker provides services to the University either directly as a worker or through an intermediary, which could be a limited company arrangement i.e. Personal Service Company "PSC" or through an agency arrangement where PAYE and NICs are not being applied by the agency on the payment to the worker.
- 2.4 Current employees or employees who have recently ceased employment with the University who undertake work for the University outside their normal role will not normally be covered by this Policy as all earnings will be considered part of their University employment, and will be subject to PAYE and NICs withholding through the payroll. In cases where the work in question is significantly different to the work of employment the employment status will be considered taking into account all the facts and circumstances.

3. RESPONSIBILITIES

- 3.1 Head of Schools "HOS" and Directors of Professional Services "DOPS"

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3.1.1

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- 3.3.1 The IR35 status check is the responsibility of the Director of Human Resources and will be performed by the HR IR35 team who will complete the HMRC Check Employment Status for Tax (CEST) test from information provided on the completed ESQ and, where appropriate, consult with the engaging manager and worker.

The IR35 Team will undertake due diligence to assist in the determination of the worker's status.

- 3.3.2 Once a determination has been made, the HR IR35 team will issue a formal Status Determination Statement (SDS) which sets out the CEST decision and reasons for the decision to both the worker (or agent) and the engaging manager.
- 3.3.3 A request for a review of any CEST decision will only be permitted where the Engaging Manager is able to provide further information which is likely to have a bearing on the outcome already reached. Any review of the original decision based on new/additional information will be the responsibility of the Director of Finance (or Delegate) and the decision will be final with no right of appeal.
- 3.3.4 The HR IR35 team will build and maintain a process to ensure that they regularly review ongoing contractor engagements every six months to ensure that the CEST determination is still correct and there have not been any significant variations in how the services are being delivered. The HR IR35 team will contact the Engaging Manager at this time and may require further information to enable a CEST determination review.
- 3.3.5 The HR IR35 team will keep a workbook of all cases referred, the decisions arrived at and the outcome of the review (including whether staff have been engaged or not and under which arrangement) and, in the case of gross payments via invoice, they will retain the Purchase Order numbers.

4. POLICY

- 4.1 This Policy applies across all the University, without exception, including all Schools, Divisions and subsidiaries

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- 6.3 Each role must be defined with reference to the type of work and the way work will be performed, which is set out in detail in the “Role Based Worker Status Determination Procedure”, and based on specific criteria.
- 6.4 A CEST status determination must be performed by the Finance Tax Team to confirm the status of a defined role is off-payroll. Each role is approved by the Assistant Director of Finance (Corporate Services).
- 6.5 Under the roles-based status determination process an engaging manager must check that the proposed appointment of an individual is consistent with an approved defined role and the specific criteria.
- 6.6 All appointments to approved roles must be documented and reported to the HR IR35 team for entry to the central register. A CEST determination will not be performed for each individual appointment.
- 6.7 An engaging manager may engage an individual as a supplier of services to be paid without deduction of tax where they have checked and confirmed the appointment is to a listed role, which meets the specific criteria.
- 6.8 Engaging managers must complete the University’s on-line IR35 training before they can appoint to an approved listed role.

7. CONTRACTED OUT SERVICES

- 7.1 A distinction should be made between an organisation that provides the University with services, and one that provides people direct to the University. The former is a supplier of services, to be engaged by Procurement, and is outside the IR35 process. The latter, i.e. a company that provides people to the University, should be referred to the HR IR35 team for an IR35 CEST determination. A tax compliance risk arises for the University when it has relationships with consultancy businesses where such organisations do not deduct income tax under PAYE or NIC’s from the earnings of the consultants who are not employed by the named consultancy business. HMRC’s “off-payroll working rules” (IR35) require the University to:

Make such PAYE and NIC deductions where consultants are deemed to be workers of the University; or

Notify an intermediary of its responsibility to make deductions when the intermediary is the “fee payer”; or

Receive assurance that the consultant’s fees are remitted to an umbrella company where deduction of tax and NIC’s takes place (confirmation of deduction in writing by the Umbrella Company is required).

- 7.2 In the case of certain consultancy businesses, a “statement of work” sets out the service obligations of the service provider as well as the stage payments to be made at each service milestone. There may be no contract in place but the contention is that the relevant consultancy business provides business services to the University because it has intellectual capital which it draws upon when delivering services to its clients. This intellectual capital allows the consultancy business to exercise management control over their consultant’s work and to ensure its quality. Some consultancy companies, such as recruitment and human resourcing businesses, do not have this intellectual capital and therefore are not providing business services to the University, but simply introducing skilled consultants in return for a fee, similar

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