

Contracting sector joins forces to defend contractors in treasury consultation

In response to the [Treasury's recent consultation over travel expenses](#) claimed by contractors who work through [contractor umbrella companies](#), over fifty delegates from the sector's leading organisations, including ContractorCalculator's CEO Dave Chaplin, agreed to offer a combined response, writes ContractorCalculator's chief reporter.

The event, which was called by legal consultancy [Lawspeed](#), saw representatives from many of the UK's largest umbrella companies debate the best way forward for the sector.

Despite the work of umbrella companies and trade bodies such as the Association of Employment Management Companies ([AEMC](#)) to increase the level of compliance in the sector, the Treasury still appears to hold the view that contractors should be paying more tax.

The way forward

Managing director of Lawspeed Adrian Marlowe suggested there were three ways in which the industry could respond to the consultation:

- o Attempt to maintain the status quo
- o Tighten-up compliance
- o Remove travel expenses for contractors.

The central thrust of any response should also be to educate the Treasury and HMRC about the market, he felt. It was pointed out that, in meetings between the HMRC and industry suppliers some HMRC professionals are aware of the considerable contribution of umbrella companies in collecting compliant tax and it was stressed that this shared understanding should be built on.

There was a consensus that if the Treasury took action to remove travel expenses from contractors who work through compliant umbrella companies, there would be a wholesale migration of contractors into personal services companies (PSCs). But [figures published](#) by ContractorCalculator suggest that this scenario would actually be an own goal for the Treasury, by resulting in a net reduction in taxes collected.

Contractor exodus into personal services companies

Naturally, contractors would want to at least preserve their existing incomes, particularly at this time of rising costs and, in a few sectors, declining rates. The best way to do this for many will be to set up their own limited company (aka "Personal Services Company (PSC)"). And, ironically, forcing contractors into PSCs would actually thwart the Treasury's objective of raising additional taxes. It is likely that, faced with the prospect of losing thousands of pounds every year, contractors might take risks with their [IR35](#) status to save money.

Compliant umbrella companies do not place their contractors in IR35 because they pay PAYE income tax, employee and employer National Insurance Contributions (NICs) and VAT at source. They are, in fact, a highly efficient tax collection mechanism for HMRC.

The 'dispensation myth'

Despite this, feedback from some delegates about their experiences with HMRC has not been positive. In one meeting with HMRC, a delegate heard it suggested that "all umbrella companies are run by crooks".

This position from some, even if only a few, HMRC representatives was clearly not a positive start to a debate on the value of umbrella companies as revenue collectors for the government.

In addition, HMRC already has the opportunity to revoke [dispensations](#) if they feel they are being abused and also to do so retrospectively. So there is no incentive for umbrella companies not to closely follow the terms of their dispensations.

Fair play

Together with the perceived abuses of travel expenses dispensations, the Treasury is thought to be concerned about the fairness of allowing contractors to claim for their travel expenses.

Delegates have reported to HMRC that such abuses are far from widespread. In fact, most umbrella companies consider their major unique selling point to contractors is providing a safe haven so that their contractors can sleep in their beds at night secure in the knowledge that HMRC won't come knocking on their door.

Under the current system, travel to and from a workplace for permanent employees cannot be claimed as a deductible expense. But for contractors this is allowable since they are based from home and then travel to what is termed a "temporary workplace" (a place where they are not expected to work at for more than 24 months). This factor also meets the HMRC's normal rules of an expense being "wholly, necessarily and exclusively in the performance of duties."

It was suggested that the Treasury might want to consider two other options to aid their management of contractor expenses:

- o Introduce a flat rate for travel expenses that contractors who work through umbrella companies can claim
- o Re-examine the rules about what constitutes a temporary workplace, such as the [24-month rule](#).

Fighting fund

After much debate, delegates decided that a centrally coordinated response would have more impact with the Treasury and, with a show of hands, over twenty companies said they would support a working group led by Lawspeed, both with time and cash. This group will represent a significant number of the estimated 100,000 contractors who work through umbrella companies.

According to Lawspeed's Marlowe, financial support is essential to fund the costs of a totally independent study by a major consultant to demonstrate to HMRC the facts about the umbrella companies' contribution to gathering revenue.

The Treasury is likely to respond to common-sense solutions proposed by organisations within the contracting sector, as it does not have the resources to police draconian new rules.

ContractorCalculator will be participating in the response to the consultation.



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Dave Chaplin is a former IT contractor in the City of London, and is founder and CEO of ContractorCalculator, and author of the Contractors' Handbook.

Started in 1999, ContractorCalculator (this site) is the leading independent website for the UK contracting industry – most of whom are highly skilled knowledge workers. [Read Full Profile...](#)

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