

## Contractor Doctor: Can I claim payment protection working for an umbrella company?

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Dear Contractor Doctor,

I have been contracting through an umbrella company and my contract was terminated early.

Since then, I have managed to claim benefits and want to start claiming for credit card payments via my payment protection policy. However, my umbrella company is saying that I was not made redundant or given the sack, but that my contracts simply came to an end.

What can I expect my umbrella company to say when my payment protection insurers write to them?

Thanks

Lilian

Contractor Doctor says:

The [contractor umbrella company](#) is correct in saying that contractors between assignments, or who have had their [contracts terminated early](#), are still employed by their umbrella company and so are technically not out of work.

According to Derek Kelly, Group Legal and Technical Director of contractor umbrella company [Parasol](#), a legitimate umbrella company cannot confirm that a contractor was made redundant or fired if they are simply between assignments.

"Contractors still employed by their umbrella company will find that payment protection policies won't pay out," explains Kelly. "This is because, as the contractor's employer, the umbrella company still officially employs the contractor, even though they are not working and earning an income."

### Payment protection policies not appropriate

Except in the event of gross misconduct, it is extremely rare for a contractor to get fired or to be made redundant from an umbrella company. Kelly explains: "Cases of early termination can increase four-fold during an economic downturn, and in a recession an increasing number of contractors take out payment protection policies that are inappropriate for the way contractors work."

Kelly confirms that many umbrella company contractors will continue to be disappointed that their payment protection policy won't pay out if their assignments are cut short, as most high street Independent Financial Advisers (IFAs) don't understand the contractor work model.

"Parasol's client contractors between assignments are still employed by us and we guarantee to pay them a minimum of 336 hours per year, even if they are not working," he continues. "This maintains their employment status with HMRC, pays a small amount towards living expenses and still covers minimum payments of income tax and National Insurance Contributions."

### No employment rights, so no redundancy

Contractors should understand that there is a contractual chain between them and the client. They are employed by the umbrella company, which has a contract with an agency, which in turn is contracted by the end-user client to provide contractors.

Kelly explains the implications of this chain: "Contractors have no direct contractual relationship with end-user clients and have no employment rights in the event their contract is terminated early. So there are no grounds for redundancy payments to contractors."

"However, termination notice periods must be honoured by clients and agencies, so reputable umbrella companies will negotiate to ensure contractors get paid what's due to them under their contract."

### When can contractors claim?

The only potential scenario when a contractor is likely to be able to make a claim on conventional payment protection policies would be in the event of their umbrella company going bust which, warns Kelly, can be a possibility during an economic downturn.

"When we've got a couple of agencies going bust every week and end-user clients are extending payment terms by months," he says, "some of the smaller umbrella companies with fewer clients and a higher cost base could be at risk."

## Tax status jeopardised

There is another implication to consider. If contractors are getting letters from their umbrella company saying they have been sacked, then, according to Kelly, this calls into question the preferential tax status of any expenses claimed. And, if HMRC comes after the contractor, it could cost a lot more than any benefit from payment protection payouts.

"Contractors should be aware of the repercussions of any actions to force through a claim on their payment protection policy," continues Kelly, "as it could end-up costing them much more in the longer term if HMRC investigates." Also, contractors who have been with their umbrella company a long time should technically be entitled to redundancy payments if they are let go.

"Contractors should think very carefully before investing in any payment protection policies and always consult an IFA expert in contractor financial affairs," says Kelly. "A legitimate umbrella company will have support structures in place to help contractors between assignments cope with their situation."

Good luck with your contracting!

Contractor Doctor

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