

Ensuring you get paid when contracting

Introduction

Contracting is inherently different from permanent work in that there is more risk of not getting paid for the work that you do. Whilst this is rare, it does happen. Agencies and clients go bust and occasionally refuse to pay or delay payment. This article discusses ways to minimise the risk of not getting paid for both direct contracts and those via an agency.

Direct Contracts

Direct contracting means that you have a contract between the client and your company. There is no agency involved.

Whilst the majority of contracts are sourced through agents some contractors get work through contacts - perhaps other contractors or ex-bosses.

Sometimes the client will insist the contractor works via a chosen agency to reduce the hassle factor for the client. This is usually done at a reduced margin for the client, since the agent has done nothing to secure the contractor for the role.

On other occasions the client will sign a contract directly with the contractor. For medium sized businesses who have done this before they will normally draft the contract for you to sign. If they are new to hiring direct then perhaps you might split the cost of hiring a lawyer to draft the contract for you. It will cost less than £500. If you join the [PCG](#) you can get draft contracts free of charge.

If you sign a contract directly with the client there are a number of ways you can mitigate the risk of not being paid:

1. Request to be paid weekly rather than monthly. This won't go down too well and is unlikely, since it will cost them 4 times as much to process your invoices. However, you could offer a discount. It means that you only lose 2 weeks pay if things go sour.
2. Request payment within 7 working days, or less. This reduces the amount of risk you hold. For example, if the payment period was monthly with the usual 30 days notice then you are risking 2 months payment. If the client is small and you don't know them then this radically increases your risk and alarm bells should go off.
3. Check that the organisation you will be working with is financially sound. [Read more...](#)
4. Outsource the payment to a factoring organisation. They will pay you a set amount of the amount invoiced up front and the rest when they get paid, minus a commission for them which varies from 5% to 10%.

On the whole there is nothing to worry about when contracting directly with clients, particularly large blue chip companies. It can be a pain chasing payment though.

One last point, you may think that contracting direct means you get a higher rate than if you went via an agency. This is rarely the case for large clients. As far as they are concerned they have saved the cost of not using the agent, so why should they pay you more than the going rate? You can try and negotiate a higher rate on this point, but it is unlikely you will get very far.

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Contracts via an Agency

Anyone can set themselves up in business and become a recruitment agent without registering, or passing any exams or certifications. Veteran contractors won't find this statement surprising. Right folks?!

If you go via a reputable agency then they will most probably use a factoring organisation for their invoices. This means that a factoring organisation pays them the value of the invoice minus a percentage for taking on the debt. The factoring organisation then collects the debt. This generally gets built into the agency margin unless the agency is very cash rich. This is one reason why agents charge around the 10%+ figure on margins.

If the agency is using a factoring organisation then you should get paid soon after you have invoiced them - typically no more than 5 working days.

Whilst rare, some less reputable agencies who do not use factoring organisations will only pay you once they have received the money from the client. This can be at least 30 days and exposes you to risk if the client does not pay. One of the advantages of using an agent should be security of payment. If they cannot offer security of payment then start seriously considering if you want to use them.

There are a number of ways to mitigate the risk of not being paid when contracting via an agent:

1. Establish how reputable they are. How long have they been in business? From the companies house web site you can download their accounts and company information for less than £10. This is not much to pay for a bit of long term security.
2. Check if they use a factoring organisation. If they don't then ask them how they will secure payment if the client does not pay.
3. Check the contract for a schedule of payment in writing. There should be one stating when they will pay you for completing the work and submitting timesheets.

On the whole, you will tend to find that most agencies pay within a few days of being invoiced. Still, it is worth making sure up front that they are going to do so.

If Payment Is Delayed

It is very rare that agencies and clients do not pay on time. When it does happen it is either a genuine mistake that gets fixed immediately or the client or agent is going bust. Thus, if this does happen then consider this a huge red alert - defcon one!

In the event of payment being delayed then it is a breach of contract and you do not have to continue working for the client. They will still owe you the money if you refuse to continue working. This is your legal right.

If this happens to you then the suggested course of action is to demand in writing that they pay you within 3 working days or you will terminate the contract. There will sometimes be genuine mistakes but in 99.9% of cases this does not happen. It is not common.

If you are still not paid then simply withdraw your services. The more time you spend working for nothing is time lost looking for a new contract.

Having withdrawn your services send them a letter explaining why and inform them that you have commenced legal action.

Wait a week and if you still have not been paid then start legal proceedings. It rarely gets to this stage.

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