

Contracting and jury service – the issues explained

Contractors can be chosen at random for [jury service](#) and, just like any other UK citizen, they are legally required to attend court. They would normally be required to serve for ten days, or potentially even longer if a trial takes weeks to resolve.

It is possible for contractors to be excused from jury service, or have their service deferred, but each situation is judged by the court's summoning officer and a request can be refused if no good reason is given.

During the period of jury service, many contractors are unable to work, or can only work for part of their day. This not only results in a loss of earnings, but could technically leave a contractor in breach of contract. [Jury service expense insurance](#) can alleviate some loss of earnings, but is usually limited in scope.

Clients and agents understand jury service is a legal obligation

According to Derek Kelly, managing director of contractor accountant [ClearSky](#), jury service affects very few [limited company contractors](#). "It's a statutory obligation and contractors are legally obliged to attend court," explains Kelly, "so in most cases the client and agency accept that the contractor is unable to perform their services for the period of service."

In Kelly's experience, though, contractors stand a good chance of being excused from Jury service if they request it. "Contractors often do have a mission-critical role that enables them to defer or be excused from service.

"A specialist MoD security cleared contractor completing the final software patch on a vital weapons system who would be impossible to replace at short notice is likely to be granted a deferment!"

Umbrella contractors must inform their employer

The situation is different for [umbrella company contractors](#), who have an obligation to inform their employer – their umbrella company – first. "What happens next depends on the umbrella company's policies," says Rob Crossland, Chief Executive of PAYE (Pay As You Earn) umbrella company [Parasol](#).

"Contractors working for a reputable umbrella company will have a full employment contract in place and can call on the umbrella's human resources professionals for advice," he continues. "The HR team will be able to advise on what policies their umbrella company has in place to deal with jury service situations."

Crossland agrees with Kelly that, whilst the agency and client might not like it, jury service is generally grudgingly accepted by all concerned. "Yes, technically a client could claim breach of contract if a contractor is unable to provide their services, but the claim is tenuous and is unlikely to be well received by a court, especially as we would work with the client and agency to find and offer a replacement for the period, endeavouring to fulfil the contractual obligations."

Who pays when a contractor can't work, and how much?

According to Crossland, it is possible for workers engaged in jury service to claim a range of expenses back from the HM Court Service which would compensate contractors on lower hourly rates, but many higher earning contractors would still be left out of pocket.

"Contractors performing jury service can claim for travel expenses, such as mileage and fares, subsistence and a hardship allowance for the first ten days of service," explains Crossland. "Because contractors working for umbrella companies are full-time permanent employees, the umbrella company is required to continue to pay a contractor on jury service, but exactly how much will depend on each umbrella company's employment policies."

It is also possible for contractors to take out an [insurance policy](#) to cover loss of earnings during a period of jury service. Members of the [PCG](#) who have PCGPlus and PCGSolo membership grades receive jury service expense insurance as one of their membership benefits.

However, an insurance policy won't cover the potential loss of earnings as a result of a long trial. For example, PCG's policy will cover only the first ten days at a rate of up to £300 per day, depending on the contractor's rates at the time, less what a contractor can reclaim from HM Court Service.

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Rob Crossland, Parasol

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