

## HMRC report fails to vindicate Off-Payroll extension



HMRC has published its report exploring the long-term effects of the Off-Payroll rules on agencies operating in the public sector, and the early effects of preparation for the April 2021 reform, just two weeks before the rules are extended to the private sector.

Produced by IFF Research, '[Effects of the Off-Payroll working reforms on employment agencies](#)' summarises qualitative data gathered from a mere 34 agencies. Though perceivably a consequence of the Covid pandemic, the lack of substance will raise questions not only of the report itself but of Government's decision to press ahead with a 2021 private sector rollout.

"The IFF only spoke to 34 out of roughly 20,000 UK recruitment agencies and the report contains no figures to speak of, so the whole exercise appears to be somewhat futile," comments ContractorCalculator CEO Dave Chaplin.

"The report does, however, acknowledge many of the issues that industry bodies have been flagging up for the past few years. Unfortunately, it's impossible to gauge the full extent of how these problems were felt by the respondents due to the lightweight nature of the report.

With a previous IFF Research [report into Off-Payroll being questionable](#), one has to wonder whether this latest offering is once again designed to be vague to hide the widely reported problems with the legislation.

### Flawed research raises questions over Off-Payroll timing

As well as contributing to few, if any, firm conclusions, the report's small sample size and lack of detail will likely be the source of further frustration among many with regards to Government's decision to press ahead with the private sector reform this year.

Prior to the March Budget, Government conceded that it hadn't conducted all the reporting it had intended with regards to the Off-Payroll rules, which it attributed to the effects of the Covid pandemic. However, no further Off-Payroll postponement was announced.

Consequently, the lacking agencies report was accompanied by the publication of [a separate IFF Research study](#) which was initially intended to examine the effects of Off-Payroll on the health, social work, public administration, defence and education sectors.

But owing to low response rates resulting from Covid, the report was limited to findings from the education sector and drew its conclusions based on: *'51 survey interviews with individual sites for public authorities in the education sector, and qualitative follow-up interviews with six of these sites.'*

"This type of research is supposed to underpin and justify Government policy. Instead of acting on findings from its research, this Government is acting in spite of its lack of findings. It's deeply worrying," notes Chaplin. "As far as HMRC's research is concerned, the impact of Off-Payroll on entire industries is unknown, yet here we are, less than two weeks away from the private sector rollout."

## Report reaffirms prevalence of 'blanket' approach

Though the conclusions drawn by the report are dubious, there was at least acknowledgement of several issues that are known to have plagued the industry since the reform was introduced to the public sector in 2017. One example is the decisions by clients to negate their compliance obligations by refusing to continue to engage limited company contractors, which was referenced multiple times throughout the report:

*'Some agencies and clients had notified contractors about the reform and the way they intend to operate thereafter, motivating some contractors to change their arrangements in preparation. Other agencies and clients had drawn a 'line in the sand', i.e. stopped using PSCs.'*

Elsewhere, the report added: *'A few agencies gave accounts of clients taking an "all-encompassing" or "blanket" approach to contractors ahead of April 2021, regardless of the arrangement they used. In these circumstances, clients had decided to stop using contractors altogether.'*

"Of course, agencies and clients are free to make this decision. But this approach is one which is forcing thousands of legitimate contractors into false employment and one which is almost entirely manufactured by the Off-Payroll legislation," says Chaplin.

"The casual manner in which these accounts are shared goes to show that this Government is less concerned about ensuring people pay the correct amount in tax as it is about securing employment taxes from as many engagements as possible."

## Contractors respond to being placed on payroll

Despite possibly being downplayed, the fallout for agencies and their clients is noteworthy. Though 'many' respondents reportedly maintained a stable contractor headcount, some attributed a decreasing number of contractors on their books to the 2017 reform, with the report also keen to acknowledge the impact of factors such as Brexit and Covid.

Meanwhile, IFF Research observed a response from contractors forced into alternative engagement models, some of whom had put pressure on agencies and clients to increase their gross pay *'to offset the reduction in their net pay from Income Tax and NICs deductions as well as other charges'*.

"What the report doesn't specify is whether the 'NICs' referred to include employers' National Insurance Contributions, which are an unlawful tax deduction," notes Chaplin. "However, given what we know from our own research, and the fact that [group litigation is being prepared on behalf of many contractors](#) for said deductions, I think we can infer what the answer may be in many instances."

## Rising rates damaging client competitiveness

Though the overall impact of the legislation is portrayed as negligible, the report acknowledges that contractor rate rises have damaged the competitiveness of some public sector organisations in the wake of the 2017 reform. This was particularly prevalent in the IT and healthcare sectors, where IFF Research observes contractors could command higher rates from clients due to the rates available in the private sector, adding:

*'Public sector clients subsequently yielded to the pressure from contractors to increase rates. A couple of agencies mentioned their clients had struggled to afford the increased rates required to remain competitive.'*

The recruiters supplying these clients were similarly affected. Quoting one agency responsible for supplying contractors to the healthcare industry, the report reads:

*"It affected our capability to supply healthcare staff to the NHS... [Contractors] didn't want the extra taxation; they didn't want the bother and a lot of the people who worked through their limited companies felt it was a direct attack on them and their ability to earn money. A lot of them responded by not working for agencies."*

"HMRC's other report might not have secured feedback from healthcare bodies, but the insight from agencies tells you all you need to know about how the Off-Payroll legislation has affected an already overwhelmed sector," concludes Chaplin. "Let's hope other industries aren't hit quite as hard when Off-Payroll reaches the private sector in a couple of weeks."

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