

HMRC unable to substantiate allegations of misrepresentation against contractor press



HMRC has conceded it is unable to substantiate claims that the contractor press has misrepresented comments by HMRC officials concerning 'blanket rulings' in response to the public sector Off-Payroll rules.

Documented in the minutes to the 21 November 2018 [IR35 Forum meeting](#), HMRC alluded to 'articles posted online in the contractor press', which it claimed had made 'allegations against a named HMRC individual', adding: 'HMRC was clear that it is inappropriate for an official to be named, and that the articles had misrepresented what had been said.'

However, in responding to a Freedom of Information (FOI) request from ContractorCalculator, HMRC acknowledged that it had no supporting evidence to support its claims.

HMRC fails to clarify claims of misrepresentation

Citing HMRC's claim, ContractorCalculator's FOI request sought clarification on several issues, including:

- Details of articles that 'included allegations against a named HMRC official'
- Support for the claim that naming an official is 'inappropriate', including reference to relevant press guidelines or statutory laws
- Evidence supporting the claim that articles had 'misrepresented what had been said'.

HMRC claimed it was unable to share details of the articles or sources referred to because such information was not recorded in the minutes of the meeting.

However, it is possible the comments alluded to a series of ContractorCalculator articles quoting claims made by HMRC which are believed to have misled public bodies, [including the NHS](#), and on [how to interpret and apply the Off-Payroll rules](#).

HMRC acknowledged that there is nothing in writing under which it would deem the naming of an HMRC official as inappropriate, but added: 'these minutes reflected the opinions of the HMRC officials; that to publish an allegation based upon a misrepresentation against a named junior official would be considered inappropriate.'

"We would consider it irresponsible not to provide full evidenced sources where public guidance on how to apply the Off-Payroll rules is

issued. Particularly when that guidance is inciting non-compliance and exploitation of contractors,” comments ContractorCalculator CEO Dave Chaplin.

“If HMRC wants to protect its ‘junior officials’ from claims they make misleading statements, it shouldn’t place them in charge of such important matters, unless they have a sufficient understanding.”

Taxman’s argument to support comments is legally flawed

HMRC was unable to provide evidence to support claims recorded within the minutes concerning misrepresentation. Instead, it insisted that such comments were ‘in response to a general misrepresentation with regards to the phrase “blanket rulings”’.

In its response, HMRC sought to clarify its stance on blanket rulings by referring to its definition of the arrangement which had been established elsewhere within the meeting minutes.

This definition appears to permit hirers to, in some instances, contravene employment law by assessing contractors without considering the working practices of the engagement.

As a result, [HMRC’s description was rendered legally flawed](#) by employment status experts.

“HMRC has been caught red-handed once again,” continues Chaplin. “Realising that it is unable to substantiate any of its allegations against the contractor press, it has concocted the feeblest of excuses to hide behind.

“The matter of blanket assessments has been widely covered, and HMRC has been shown to be perpetrating [an interpretation of the law that is wholly wrong](#). This is a position from which NHS Improvement (NHSI) was forced to concede a Judicial Review at the pre-action stage less than two years ago.”

Can HMRC be trusted to do right by the taxpayer?

The news comes just a week after prominent tax barrister [Keith Gordon published a letter](#) written to the Financial Secretary to the Treasury, in which he expressed concern about HMRC’s integrity, noting: ‘It is my view that no-one can safely rely on the veracity or accuracy of any statement uttered by HMRC on the mere basis that the statement is being made by a public servant.’

Similar concerns were expressed within a [House of Lords Select Committee report](#). Published in December 2018, the report implied that the requirement to collect more tax with fewer staff had compromised the taxman’s virtues, stating:

‘These cultural drivers may have pressured staff to take a more aggressive approach to tax collection, and in doing so impaired the ability to be fair to taxpayers and act in accordance with Charter values.’

“It’s no secret that HMRC is abusing its powers and misrepresenting the law,” concludes Chaplin. “Now it has begun attacking the free press, which is essential to upholding democracy.

“The Off-Payroll consultation is due to begin very soon. It will be interesting to see whether HMRC uses it to peddle further unsubstantiated propaganda, or if the taxman finally decides to behave in an honest manner.”

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