

Off-Payroll audit guide: How to create an effective and accurate compliance strategy



The Off-Payroll rules impose a new compliance burden on contractor clients and their recruitment partners. But this workload is perfectly manageable once the correct strategy has been identified and implemented.

Instead of being spooked by the perceived administration and tax risk imposed by the Off-Payroll rules, hirers and recruiters who adopt a compliance strategy can continue to enjoy the benefits of working with contractors who are compliantly engaged.

Here, we will share the outline of a strategy which promises firms rigid and cost-effective compliance, in addition to accurate IR35 assessments courtesy of [IR35 Shield](#), our recommended compliance solution.

Identifying IR35 issues within the workforce

Before taking any active steps to address the Off-Payroll rules within your contingent workforce, there are a number of questions that you will need to consider:

- Which contractors require a status assessment under the Off-Payroll rules?
- Which contract engagements pose a significant IR35 risk?
- What are the greatest IR35 risk-factors threatening your company?
- How can you mitigate and nullify these risks?

Answering these questions will put your compliance operation into perspective, helping you to realise that it is perfectly manageable. Depending on your chosen compliance solution, finding the answers to these questions could be equally straightforward.

Remember, certain compliance solutions are scalable, so don't let the size of your contingent workforce prove a deterrent from Off-Payroll compliance. First, conduct an audit of your recruitment partners to identify the operating structures used by your contractors to identify who needs to be considered under the rules.

From here, conducting an initial assessment of your contractors can help ascertain IR35 risk. IR35 Shield's 'indicative status determinations' enable clients to identify at-risk engagements from status assessment answers derived from contract paperwork and working practices.

The accumulation of indicative assessments will also help clients identify the most prevalent IR35 risk-factors across their workforce. Being able to identify issues and apply wholesale remedies to mitigate IR35 risk means less time needs to be spent addressing IR35 with contractors on an individual basis.

Supply chain tasks and the importance of cooperation

Assessing IR35 status is just one of a number of components to Off-Payroll compliance. There are other challenges, many of which require clients and their recruitment partners to work together closely.

The debt transfer provisions introduced to the private sector Off-Payroll rules by HMRC mean clients and recruiters need to take careful measures to prevent non-compliance from payment intermediaries within their supply chains, or else assume tax liability risk.

Policing a supply chain won't always be straightforward. However, terminating engagements with perceivably high-risk providers as soon as possible is key, guidance on identifying which can be found here.

Clients may also seek to establish policies governing their engagement of contractors, which will need to be communicated to their recruiters. For example, should a client wish to engage all contractors deemed within scope of IR35 via an umbrella company, the recruiter will contribute significantly to making the necessary supply chain adjustments. More information on this, and other issues that will need to be addressed in unison, can be found here.

Planning for the behavioural impact of Off-Payroll

Financial modelling is also crucial in determining the true cost of the Off-Payroll rules. Having evaluated your contingent workforce for IR35 risk, you'll have an idea of who is likely to be caught under the Off-Payroll rules and who will be outside of their scope. Now you need to consider, and plan for, the financial implications.

Whereas clients and their recruitment partners will need to accommodate the employment tax costs of each contractor deemed within scope of IR35, there are several other factors to consider, including:

- Which 'inside IR35' contractors are likely to leave?
- Which 'inside IR35' contractors are likely to demand rate renegotiations?
- Who can you afford to lose and who is indispensable?
- What renegotiated rates can you afford to offer your 'indispensables'?
- Which projects may require re-budgeting or cancelling altogether?

This is a complex task made easier by IR35 Shield and its financial reporting feature. This takes the financial information from each assessment, coupled with the indicative assessment outcome, to provide a number of financial reports, each highlighting tax costs, risks and potential savings in granular detail.

Ultimately, how your 'inside IR35' contractors respond to their deemed IR35 status could depend on your approach. Several organisations have recently demonstrated how not to approach Off-Payroll compliance. The correct approach involves communicating IR35 assessments with contractors and providing clarity over the reasons behind the decision.

With IR35 Shield, each status assessment completed informs the Status Determination Statement (SDS) provided. Precisely detailing the reasons behind the status decision not only meets a legislative requirement, but also shows the contractor that you have conducted a fair and comprehensive assessment.

Planning ahead and continued compliance

Debt transfer provisions also constitute one of numerous factors influencing how clients choose to engage contractors beyond April 2020. There are several joint employment arrangements which could provide benefits for both clients and their recruiters. Identifying the right arrangement is something clients may want to do sooner rather than later.

Finally, it's important to remember that the compliance process doesn't end with a status assessment, or the application of the according tax treatment. Clients, recruiters and contractors need to be vigilant in ensuring that working practices continue to reflect those indicated in the contract paperwork and status assessment

Parties must also ensure that each contract renewal is treated as a new engagement, and subject to a considered status assessment. Otherwise, it is the client that will bear the brunt of Off-Payroll compliance complacency.

Fast-track your Off-Payroll compliance

The approach outlined in this guide highlights various characteristics of the [Shield Passport Process \(SPP\)](#), a process designed to help clients and their recruitment partners fast-track their Off-Payroll compliance, while still promising accurate assessments and minimal tax risk.

The structured four-step, 12-stage process has been designed by IR35 compliance experts IR35 Shield and [Professional Passport](#), and can be accessed via a comprehensive three-hour workshop. Private SPP workshops are open to bookings from recruitment agencies, who can then invite their clients to attend, ensuring that Off-Payroll is tackled cooperatively and compliantly.

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