

## Public sector IR35 reforms push social care sector closer to breaking point



Local authorities responsible for managing social care across the UK are increasingly failing to deliver front line services after the [public sector IR35 reforms](#) intensified already acute staff shortages in the sector.

With local authorities assuming all locum social care staff to be caught by the legislation, workers who were previously trading via a limited company are now suffering a pay cut of effectively 20-25% of their earnings.

This has compounded the crippling impact of recently implemented caps on locum pay, which were introduced within a series of memorandums agreed amongst local authorities in a bid to tame competition for agency staff.

Authorities are subsequently grappling with [escalating vacancy rates](#), with social workers unable to counteract IR35 changes by increasing their hourly or daily rates, or claim tax relief on travel expenses.

### How MOUs and IR35 have combined to cripple social care

“There’s been a crisis in front line children’s services and lack of available staff for years. IR35 has made it ten times worse,” says the managing director of a UK-based social work recruitment company, who has asked to remain anonymous. “It’s not just down to IR35. The memorandums were in place long before the IR35 changes, but when compounded it has created absolute chaos.”

As of 2015, councils around the UK are now partner to a [Memorandum of Understanding \(MOU\)](#), to stop spiralling locum rates by preventing authorities from outbidding each other for workers.

With restrictions already imposed on their earnings, locum social workers are now subject to tax hikes courtesy of blanket decisions made by local authorities in the wake of the public sector IR35 reforms.

“The consensus is that all locums are caught by IR35. There is no individual testing carried out on behalf of the local authorities,” continues the recruiter. “When HMRC consulted on the changes prior to implementing the legislation, on multiple occasions they used social care as an example of a profession caught by IR35, and so authorities don’t feel obliged to assess social care workers on an individual basis.”

### Rural councils hit harder by IR35 reforms

As the recruiter explains, differences between the MOU adopted by London boroughs and that agreed by others outside of London has left rural boroughs facing further difficulties.

“The MOU for London is essentially just a rate cap. Elsewhere, once you are signed up, if you are leaving a permanent contract for locum work, you can’t work for another borough that is part of that MOU for six months. What we’re seeing is a lot of workers going locum and temporarily moving away from rural areas to London, to bypass this clause.”

Whilst the MOU has created problems for rural councils, changes to IR35 have made things worse. Now unable to claim travel expenses to and from work, it is no longer a viable option for many locum care workers to travel further afield for work.

“A rural council contacted us the other day for help filling 40 locum vacancies, and they’re asking us where the problem lies,” says the recruiter. “It’s clear that it’s a combination of the MOU and IR35.”

### **‘Counter-productive’ measures place more authorities in private hands**

Many locums have sought work elsewhere, though the lack of vacancies in the private sector has caused a number to leave the profession altogether. However, as the recruiter points out, the poor performance caused by staff shortfall is inadvertently presenting more private opportunities for workers:

“Where a local authority fails its inspections twice consecutively, the recommendation is it is placed into trust, which usually has a minimum term of six years. These trusts are privately operated and so can engage workers outside of the public sector IR35 changes.

“If the Government continues to reduce budgets to the point where local authorities are failing because they can’t find the staff, they will be moved into trusts and we’ll see more social workers circumventing the IR35 changes. So, it’s counter-productive.”

### **Why is IR35 so damaging for social care?**

Less than a year after implementation, the social care sector is providing evidence that the public sector IR35 reforms are already having a detrimental impact on other initiatives.

“Local authorities are having to bear the brunt. They can’t attract enough locum workers in the first place and this means those requiring care don’t receive the service they need. This has an impact on families. When social workers are available, it is rarely for a prolonged period of time. This instability nullifies the original intent behind the MOU.”

For the recruiter, the solution is obvious. The Government needs to consult local authorities and reverse the trend of declining funding for social care in order to improve conditions for workers.

“If local authorities can’t reduce caseloads, offer better rates of pay and improve development programmes, people aren’t going to stick around. Authorities have resorted to cost-cutting measures which have evidently backfired due to lack of Government funding. Now matters are being made worse by tax legislation which really shouldn’t be having such a devastating impact on social care.”

### **How will a private sector rollout impact industry?**

As an industry which operates predominantly in the public sector, the social care service provides an accurate case study for what many private sector industries can expect if proposed measures to roll out the IR35 reforms beyond the public sector are enacted.

Whilst the recruiter acknowledges that a private sector rollout might help to ‘level the playing field’ in the social care sector, he believes the repercussions for wider industry are likely to be far more severe.

“A social care worker in London working a 36-hour week at £28 an hour outside of IR35 takes home £1,008 per week. Putting that through an umbrella company means you take home roughly £700.

“You have private sector contractors who would see an even more significant reduction in pay if forced into IR35. The large majority of whom I expect will seek work abroad. The UK stands to lose its best talent, both in the public and private sectors.”

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