

What is a 'dependent contractor'? – The Taylor Review



A 'dependent contractor' is a term coined by Matthew Taylor and introduced into [The Taylor Review of Modern Working Practices](#).

Contrary to common belief, it is not a new employment status category. Instead it is a proposal to rename the existing 'worker' status in order to achieve greater clarity between different forms of employment.

If the recommendation is adopted, there will still be three main employment categories – employee, self-employed and dependent contractor (renaming worker). The main difference is the intention to provide clearer boundaries between the three.

There were other recommendations too, and the Taylor Review could have multiple repercussions for the contract sector, both good and bad:

- The Review could spell the end of IR35
- Contractors caught by IR35 could receive employment rights
- Dependent contractor status could make genuine self-employment easier to prove
- Wider expansion of the public sector IR35 reforms could be accelerated

What is a 'dependent contractor'?

Though it addresses the labour market as a whole, the Taylor Review was prompted by exploitation of workers in the gig-economy. It focuses largely on protecting these individuals who are: *"not an employee, but neither are they genuinely self-employed."*

In particular it attempts to tackle [false self-employment](#). This is when a company hires an individual on what the company calls a contract of self-employment, but the actual working conditions more closely resemble engagement of an employee.

The hiring company avoids the costs of providing employment benefits and employer's National Insurance Contributions (NICs) whilst the worker doesn't receive the rights that they are entitled to. The worker in this scenario would be classed as a dependent contractor, according to the Review.

What does the Taylor Review say about dependent contractors?

The Review argues that the three-tier approach to employment status is often hard to apply and distinguish between different forms of working, adding:

“Government should retain the current three-tier approach to employment status as it remains relevant in the modern labour market, but rename as ‘dependent contractors’ the category of people who are eligible for worker rights but who are not employees.”

The main emphasis is on drawing a clearer line between ‘dependent contractor’ – or worker – status and self-employment to ensure those that need workers’ rights receive them.

Several [employment tribunal cases](#) have seen workers for [the likes of Uber and CitySprint](#) secure workers’ rights based on employment case law principles. Taylor recommends introducing some of these principles into legislation to bring greater clarity up front.

The three key tests of employment status used to determine IR35 – control, personal service and mutuality of obligation (MOO) – are addressed. Taylor argues that the influence of personal service should diminish, so that exploitative employers can’t hide behind [substitution clauses in contracts](#). Instead he says more weight should be placed on control.

Should contractors be concerned about this approach?

Whenever new proposals are introduced to protect vulnerable workers, there is concern that it will have an adverse effect on professional contractors and increase their IR35 risk.

It’s essential that the two aren’t bunched together when legislation is considered. ContractorCalculator CEO Dave Chaplin raised this issue with Matthew Taylor when he was [being interviewed on BBC Radio 4’s Money Box](#), to which Taylor replied:

“You make an important point which is that the self-employed are broadly divided between what might be described as the precarious self-employed - those who earn under £15,000 per year - and what has been termed by one think-tank as the privileged self-employed.

“I don’t think I’d use that term, but this refers to more professional people who are benefiting from self-employment. There is nothing we will do that will increase the burdens on those people.”

The Taylor Review – the good news for contractors

There are a number of potential outcomes for contractors from the Taylor Review. Here’s the good news:

- IR35 could eventually become redundant
- Contractors caught by IR35 could soon receive rights

Taylor recommends aligning tax law and employment status law more closely. This means being classed as an employee under one form of legislation would mean you are an employee under another. If this were introduced, IR35 would serve no purpose and could be scrapped altogether.

If a contractor is not genuinely self-employed and outside IR35, they would be classed either as a dependent contractor or an employee, and eligible for certain employment rights.

Most professional contractors don’t want rights, instead preferring the flexibility that self-employment brings. However, the changes would finally rectify the unfair anomaly with IR35, whereby contractors pay tax as employees but don’t receive the equivalent benefits. It would effectively provide a form of compensation.

The Taylor Review – the bad news for contractors

- A wider rollout of the public sector IR35 reforms could be imminent
- Contractors caught by IR35 will have nowhere to run
- Increase in taxation of self-employment looks imminent

When the public sector IR35 reforms were introduced, many contractors moved into employment-based models and secured workers’ rights. The main concern is that the Government will leverage this argument to justify extending the changes to the private sector.

For the Government, the benefits are evident. It would address the alleged tax deficit whilst attracting more talent back into the public sector and supporting the exploited workers highlighted in the Review.

Unfortunately, it looks likely contractors will pay more tax regardless. The Taylor Review stresses the shortfall in terms of tax collected from self-employed labour compared with employed labour, which the Treasury estimates is costing it £3bn a year. It's the main cause of false self-employment which the Government looks intent on addressing by raising self-employment taxes.

How should contractors respond to the Taylor Review?

For the time being, as a contractor you should have nothing to worry about. The important thing is to make sure that you aren't one of the estimated 30% of contractors who will be caught working inside IR35 when the IR35 reforms hit the private sector.

This could spring up sooner rather than later, and when it does there won't be enough contracts outside of IR35 for everyone to move to, so you need to move fast to ensure you don't end up getting caught out.

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