

What is the joint employment model for engaging contractors?



Joint employment is an engagement model that can yield significant commercial advantages for certain organisations but shouldn't be considered a quick fix for agencies and hiring firms tasked with processing payments for 'inside IR35' contractors under the Off-Payroll legislation.

This is according to Crawford Temple, CEO of payment intermediary compliance organisation [Professional Passport](#), who advises companies to judge engagements on their individual merits before committing to an operating model:

"In certain scenarios, joint employment can present considerable advantages, but it is by no means a suitable option for every engagement. Just as companies shouldn't make blanket decisions with regards to IR35 status, they shouldn't make blanket decisions concerning how they engage 'inside IR35' contractors."

How does the joint employment model work?

Joint employment is an agreement between two parties, typically a recruitment agency and a service provider offering joint employment. Within this arrangement, the agency retains its responsibility for finding work for contractors engaged via this model while the service provider processes the payroll and carries out any duties relating to HR.

Where a worker is engaged under a joint employment arrangement, their employment status will be reflected through their employment contract which will specify both employers. Though this engagement model is often compared to the traditional umbrella company arrangement, there are few similarities. The crucial distinction centres around the treatment of VAT.

Under the joint employment model, employment costs are treated as disbursements, meaning they are not subject to VAT. How this works in practice is the service provider pays the worker's wages and receives reimbursement from the agency without VAT being involved. Meanwhile, the service charge payable to the service provider is paid separately and is subject to VAT.

The joint employment model is therefore unsurprisingly popular within industries that hold zero-rated VAT status. One such example is the healthcare sector, where the joint employment model effectively relieves agencies from paying a 20% excess on services provided by payment intermediaries that they would have no means of clawing back via output tax.

Strict arrangements prevent exploitation of joint employment

Despite presenting a significant commercial advantage, joint employment isn't a particularly prominent model across the UK as a whole. As Temple highlights, this is in part due to the associated requirements that help to prevent exploitation of the working model:

"Umbrella companies and other payroll intermediaries can't simply rename themselves joint employment providers. The contractual

arrangements and paperwork involved are relatively complex and must be carried out correctly. Joint employment is a precise arrangement and one that is easy to get wrong.

“Should HMRC intervene and find fault with a supposed joint employment engagement, the VAT that was avoided up until that point would need to be accounted for. This is just one reason why agencies and hiring firms need to exercise caution when exploring joint employment options.”

Protection against liabilities may come at a cost

Just as joint employment shouldn't be viewed simply as a vehicle to avoid paying VAT, agencies and hirers shouldn't expect it to provide a cheap mechanism through which to circumvent their compliance obligations under the Off-Payroll legislation.

Tasked with processing Pay As You Earn (PAYE) for contractors deemed within scope of the rules, many organisations are seeking to outsource this burden. Whereas some may initially perceive joint employment a cost-effective solution, the apportionment of liability within this arrangement is something that needs to be carefully considered and agreed from the outset:

“Being a joint employer, you assume joint liability for everything from statutory sick pay claims to employment tribunal costs,” comments Temple. “As a result, this model will not suit everyone, and parties adopting this approach will need to have a lot of trust in each other.”

However, one key advantage of joint employment is that the arrangements are typically tailored to the agency or hirer's needs. This means a party could feasibly negotiate protections into their agreement with the service provider, although they will likely need to pay a premium for adequate protection:

“The costs and liabilities that are picked up by the service provider will be determined during negotiations with the agency,” notes Temple. “Naturally, the service provider's fees will increase the more liability and risk they assume as they need to charge more to create a contingency fund. Consequently, agencies and hirers seeking to negate all liabilities and risk could find joint employment to be a more expensive option than anticipated, particularly if they are engaging workers through this means in high volume.”

No one-size-fits-all solution to Off-Payroll compliance

Temple ultimately encourages agencies and hirers to treat joint employment as another way of working, as opposed to a quick fix for the compliance challenges posed by the Off-Payroll legislation:

“The problem is too many parties are looking for a one-size-fits-all solution for Off-Payroll compliance, but there isn't an obvious universal answer. For some engagements the best option will be joint employment, for others it will be agency payroll, umbrella company, [PEO](#) (Professional Employment Organisation) and so on.

“As things move forward, I think recruitment companies will begin to realise that the most suitable operating model for each engagement will depend on circumstantial factors such as the agency's structure and profile of the worker. What they will find is things need to be tailored and aligned far more than simply engaging a single model as an answer to all their problems.”

Tips for exploring joint employment options

Nonetheless, joint employment will prove a favourable operating model for certain contract engagements, particularly those within sectors that are exempt from VAT. For organisations exploring this option, Temple has some final advice:

“If your company can't claim VAT, there are lots of reasons why you might want to explore joint employment as a potential option. The first step towards ensuring a safe transition is to make sure the service provider is accredited.

“Professional Passport is the only organisation with an accredited standard for joint employment. Having held discussions with HMRC's VAT office, we know the contractual arrangements that need to be in place and the structure that needs to exist between the two parties.”

Temple concludes: “Joint employment is a headline, beneath which there is a lot of tailoring going on to ensure that the arrangement matches the recruiter's needs. The business arrangement needs to be agreed in vivid detail. Professional Passport can advise on the key considerations in this regard.”

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