

# System and Process Changes to manage Off-Payroll Rules

With the implementation of the extended Off-Payroll Rules in April 2021, it's important that agencies consider the types of changes they will need to make to their systems and processes to accommodate the new 'normal' once the rules go live and become business as usual.

Here are our top tips for how to approach these changes.



## 1. What's new?

Firstly, you need to identify what's different or new. One of the best ways to capture all the changed or new requirements is to organise a workshop with all your front and back office functions. Including representatives from all your business functions will make it less likely that anything is missed out or not considered.

During the workshop, work through all the possible scenarios and permutations that the new Off-Payroll rules bring, and decide how your current processes or technology need to be adapted to accommodate those requirements.

You should schedule in at least one or two workshops after the rules have gone live, once your new processes are fully operational in practice, just to make sure everything is working as it should.

## 2. When do we do it?



Next, decide where in the placement process the different or new requirement needs to sit. This will generally be self-explanatory, but some aspects may need more thought. For example, determining whether a client is exempt from applying the Off-Payroll Rules needs to happen before any other aspect of the placement process begins.

Once the rules have gone live, you need to know what the status of a role is as soon as it's released by the client, and preferably before you agree the charge rate. Because if a role is Inside IR35, then you may want to increase the charge rate to cover off your additional statutory costs, or to ensure that the pay rate to the contractor is sufficiently high to attract quality candidates despite the fact that the role has been deemed Inside IR35.



### 3. Manual or automated?

Determine whether the new or amended requirement requires manual intervention or whether it can be automated. It's best not to automate too many tasks too early. What clients and contractors do in the run-up to April 2021 may be very different to what they are doing 6 or 12 months after go-live. Any tasks that are the same 80% or more of the time are ripe for automation (and you manage the non-standard 20% manually, by exception). But if you don't yet know what types of tasks are going to be the same, you run the risk of automating the exception rather than the rule.

### 4. Who will do it?



Lastly, decide who will do the new or changed tasks or requirements. If it's a manual process, you need to allocate a person or team to be responsible for completing the tasks. If it's an automated task, which system or software will capture the requirement – your CRM, your Applicant Tracking System (ATS), your pay and bill software or your accounting package?




### 5. Some examples

To help you get started, we've put together some of the most important changes or new requirements of the Off-Payroll Rules.

Let's start with exempt clients. This is a new requirement. Not all clients are required to consider the Off-Payroll Rules, and whether the client is exempt impacts on all other aspects of the placement process. So, in terms of where this requirement sits in your placement process, it's right at the start. Any current clients should be asked if they are exempt, and any future clients you engage with should be asked, as soon as possible.





As to whether this is a manual or technology-based process, it is probably a combination of the two. And that will dictate 'who' will be doing it. Generally, it will be a person, probably a recruitment consultant, asking the client if they are exempt. If you are going to require the client to give you a signed declaration or similar, rather than just verbal confirmation, then sending out the declaration template can be manual or technology-based. You will also likely add a fixed, reportable field in your ATS to be able to easily identify exempt clients. Then you need to consider how often you will ask the client to re-confirm its exempt status. Our advice is that you ask before the beginning of every tax year, since if a client is exempt, it is exempt for the full tax year.


Another area you will want to consider include the Status Determination Statement (SDS) process. You will obviously need to track all current PSC contractors (by that we mean contractors who are working in the same role before and after April 6th) through the process of receiving an SDS from the client and you will need to make appropriate changes to placements depending on the SDS outcome.

Once the new rules are live, we can expect clients to issue an SDS when they release a vacancy. So, where will you store copies of the SDS? How will you ensure you send on the SDS to any second-tier agencies (and to any PSC contractors if you've agreed with the client that you will do this on their behalf) in time and ensure you have an audit trail of doing so?

The types of placements that you facilitate in the future might also change. For example, you'll need a specific placement 'type' in your systems for PSCs working at exempt clients, for PSCs working Outside IR35 and for PSCs working Inside IR35 (but only if you are making deemed direct payments. If you are moving any PSCs deemed Inside IR35 to alternative payroll mechanisms such as agency PAYE or an umbrella model, then you will not need a placement type of "Inside IR35).

You'll need to clearly identify all PSC contractors, of all types, to do checks on placements and ensure they've been set up correctly. You'll also need to be able to differentiate between PSCs and other payroll types such as umbrella (some recruitment software providers don't make this distinction at the moment), since the Off-Payroll rules apply only to PSCs or partnerships, not to umbrella workers.

You may also need to do more checks on pay and charge rates in future. If you have decided to offer a deemed direct payment option to PSC contractors deemed Inside IR35, meaning that you continue to pay the PSC having first deducted the appropriate income tax and national insurance contributions (NICs), then you need to ensure that you have a sufficient difference between the pay rate and the charge rate to account for your margin, and for the Employer's NICs and Apprenticeship Levy (if applicable) payments you will be required to pay to HMRC.



It is likely that there will be increased numbers of umbrella contractors in the future. Many contractors who have used a PSC before April 2021 will use an umbrella going forward, if most of the roles they take on in the future are deemed Inside IR35. If contractors decide to use an umbrella option, have you done sufficient due diligence on the umbrella provider to ensure they are operating a genuine PAYE model, since their non-compliance can make **you** liable under a variety of tax legislation. You don't want to exchange one risk for another. You could consider implementing an umbrella Approved Supplier List, and if you already have an ASL, you could consider reviewing it before or just after April.

There are many areas to consider, and while we haven't captured them all here, we hope that these will give you an idea of at least some of the changes you may need to make internally to make the Off-Payroll rules work in your business.

