IR35 Workbench by Ascend PEOPLE SOLUTIONS

GUIDE FOR HIRING ORGANISATIONS

How to assess IR35 as a hiring manager

What the off-payroll rules ask of your organisation, how to assess an engagement so the decision stands up, and how to manage a contractor so it stays right.

For hiring managers, line managers and the people who sign off

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CONTENTS

In this guide

1. The short version
2. Do the rules apply to you?
3. Your organisation's duties
4. Before you engage
5. How to assess an engagement
6. The questions to ask yourself
7. Managing the contractor
8. Keeping it under review
9. Records to keep
10. Common mistakes
11. Before you sign off

The short version

If your organisation is medium or large, it decides whether each contractor working through their own company falls inside or outside IR35. As a hiring manager you usually know the engagement best, so your answers carry much of the decision.

> **Three rules for hiring managers**
>
> Assess each engagement on how the work will really be done, not on the outcome you would like. Give the contractor a chance to give their side. Then manage the contractor the way the assessment describes, because if your management changes, the status can change with it.

Do the rules apply to you?

The off-payroll working rules apply when a contractor supplies their services through their own limited company, or another intermediary, and your organisation is the end client. The public sector has applied them since April 2017, and medium and large private-sector organisations since April 2021.

A private-sector company is small, and outside these duties, if it meets two or more of these tests for two financial years in a row. These figures apply from 6 April 2026.

TEST	SMALL IF
Annual turnover	**£15 million or less**
Balance sheet total	**£7.5 million or less**
Average employees	**50 or fewer**

Groups are tested on the whole group's figures. If your organisation is small, the contractor's own company decides its status instead, and you should tell your contractors so. If you stop being small, tell them that too, because responsibility then moves to you.

You need to assess

- contractors working through their own limited company
- contractors working through a partnership or other intermediary
- these contractors whether engaged directly, through an agency or through a freelancer management platform

No IR35 assessment needed

- workers employed by an umbrella company, where PAYE is already operated
- sole traders contracting directly with you, though their employment status still matters for other reasons

Your organisation's duties

- **Decide the contractor's status** for each engagement: whether they would be an employee for tax purposes if they were engaged directly.
- **Take reasonable care** in reaching that decision. HMRC expects the care to match the size and complexity of your workforce. Bulk decisions that ignore the facts of each engagement do not count.
- **Issue a Status Determination Statement (SDS)** setting out the decision and the reasons for it. Give it to the contractor and to the party you contract with, such as the agency. Saying in an advert that a role is inside or outside IR35 is not an SDS.
- **Run a status disagreement process.** If the contractor or the fee-payer disagrees, you have 45 days to consider what they say. You then either confirm the decision with reasons or issue a new SDS.
- **Keep records** that show how each decision was reached.

> **What happens if you get it wrong**
>
> Until a valid SDS has been issued with reasonable care, your organisation is responsible for the tax and National Insurance due on the contractor's fees. The same applies if you don't run the disagreement process properly. HMRC can now offset some tax the contractor has already paid, but employer National Insurance, interest and penalties are not offset, so the cost can still be significant.

Before you engage

Many IR35 problems are set up before the contractor starts. A few decisions at the hiring stage make the assessment much simpler.

- **Ask whether you need a contractor or an employee.** If you need someone to fill an ongoing post, do the same job as your staff and be managed like them, the engagement is likely to fall inside IR35.
- **Define the work as a service.** A project, a set of deliverables or a defined outcome, with an end point, is easier to assess and to manage than an open-ended role.
- **Write a statement of work.** Say what is to be delivered and by when, and leave out how the contractor must do it.
- **Keep the contract consistent with the plan.** The terms should reflect the real arrangement, including any right to send a substitute.
- **Assess before the contractor starts.** The SDS should be issued before the engagement begins, so everyone in the chain knows how fees will be paid.
- **Budget for either outcome.** An inside determination changes the cost of the engagement for the agency and for the contractor. Agree how that will be handled before the assessment, not after it.

How to assess an engagement

A sound assessment follows the same steps every time. The order matters, because each step builds the evidence for the next.

1. **Start from the role**

   Use a role your organisation has already assessed, so every hiring manager starts from the same position. A role assessment is a starting point. It never replaces the assessment of the individual.

2. **Assess this engagement**

   Check every answer against how this contractor will actually work: the contract, the statement of work, and how you will manage them. Change anything that differs from the role, and note why.

3. **Answer from reality**

   Describe what will happen, not what the contract says should happen or the result you would like. If you are not sure, say so and add a note. An honest borderline answer is better than a confident wrong one.

4. **Get the contractor's side**

   The contractor knows things you may not, such as whether they use a substitute, invest in their own equipment or fix defects at their own cost. Their answers make the decision more accurate and show reasonable care.

5. **Review and sign off**

   A senior person in your organisation should read the full draft and approve it before it is issued. Borderline cases should go to someone with IR35 expertise for review.

6. **Issue the SDS with reasons**

   Give the statement to the contractor and the party you contract with, and keep a copy with the evidence it was based on.

The questions to ask yourself

These are the questions behind every status test, put in a hiring manager's terms. No single answer decides the outcome. The first three usually carry the most weight.

ASK YOURSELF	POINTS OUTSIDE IR35 WHEN
Substitution. Would we accept someone else doing the work if they had the right skills?	The contractor's company can genuinely send a qualified substitute and pays them, and you would only refuse on objective grounds such as skills or security clearance.
Control. Do I decide how the work is done, or only what is delivered and when?	You set the outcome and deadlines, and the contractor decides the method, sequence and working pattern. Site rules and safety requirements don't count as control.
Financial risk. Does the contractor stand to lose money if the work goes wrong?	They fix defects at their own cost, work to a fixed price, or pay for significant equipment, insurance or training that you don't reimburse.
Obligations. Are we obliged to offer more work, and are they obliged to take it?	The engagement is for a defined piece of work, with no expectation that more will automatically follow.
Part and parcel. Would someone outside the organisation see them as one of our staff?	They don't manage your staff, don't appear on your org chart and don't receive staff benefits.
Their business. Do they run a business of their own?	They have other clients, market their services and carry their own insurance. This is supporting evidence and rarely decisive on its own.

Managing the contractor

An SDS describes how the engagement works. If the way you manage the contractor drifts away from that description, the SDS may no longer be accurate. For an outside engagement, these habits keep the two in line.

Do

- agree deliverables and deadlines, and review progress against them
- let the contractor decide how and when they do the work
- raise problems as issues with the deliverable
- treat time off as a change to their availability
- raise a change to the scope through the contract or statement of work

Avoid

- appraisals, one-to-ones or performance reviews of the kind staff receive
- asking them to manage your employees or approve their leave
- putting them on the org chart or in staff-only events and benefits
- moving them onto unrelated work as the need arises
- rolling the engagement on with no change to the scope

Health and safety, site access, security and data protection rules apply to everyone. Requiring contractors to follow them is normal and does not make them employees.

Keeping it under review

An SDS reflects the engagement at the time it was made. Review it whenever the facts change.

- **When the scope changes,** for example new responsibilities, managing staff, or covering for an absent employee.
- **At every extension.** Treat it as a new decision, ideally with a new statement of work.
- **When the way you manage the contractor changes,** or a new manager takes over.
- **At least every 12 months** for longer engagements.
- **When the contractor or fee-payer disagrees.** Log the date you receive it, consider it properly, and reply within 45 days with reasons.

Records to keep

If HMRC asks how a decision was reached, the people involved may have moved on. The record has to speak for itself.

KEEP	WHY IT MATTERS
The assessment answers, with notes and who gave them	Shows the decision was based on the facts of the engagement
The contractor's answers and any documents they provided	Shows both sides were considered
The contract and statement of work	Shows what was agreed
The review, sign-off and any expert review, with dates	Shows who was accountable and the care taken
Each SDS and who received it	Shows the duty to issue and pass it on was met
Every disagreement and your reply	Shows the 45-day process was followed
Reviews at extensions and changes of scope	Shows the decision was kept up to date

Keep the records for at least six years after the engagement ends. HMRC can normally look back four years, six if it thinks an error was careless, and longer in cases of deliberate behaviour.

Common mistakes

These are the errors that most often undermine a determination.

- Deciding every contractor is inside, or outside, without looking at each engagement
- Answering the questions to reach the result the hiring manager wants
- Relying on the contract wording when the working practices are different
- Using a role assessment or a job advert as if it were the SDS
- Not asking the contractor for their side
- Issuing the SDS after the contractor has started, or not passing it to the agency
- Letting a contractor's role drift without reviewing the decision
- Missing the 45-day deadline to reply to a disagreement
- Treating HMRC's CEST tool result as the end of the process. Keep a dated copy and the evidence behind your answers.

Before you sign off

Use this before any determination is approved. Anything you can't tick needs fixing or explaining in the record.

- [ ] The contractor works through their own limited company or another intermediary
- [ ] This engagement has been assessed individually, not only as a role
- [ ] The answers describe how the work will really be done
- [ ] The contract and statement of work match those answers
- [ ] The contractor has given their side
- [ ] Borderline points have been reviewed by someone with IR35 expertise
- [ ] A senior signatory has read the full draft
- [ ] The SDS states the outcome and the reasons
- [ ] The SDS will reach the contractor and the party we contract with before work starts
- [ ] A review date is set, and the manager knows to raise changes

Tick each line before the determination is approved.

About this guide. This is general information about IR35 and the off-payroll working rules as they stand on 27 October 2026. It is not tax, legal or accounting advice, and it does not decide the status of any engagement. Your organisation remains responsible for its own determinations. Ascend People Solutions Ltd does not give tax advice. For complex or borderline engagements, take advice from a qualified tax adviser.

HOW THE IR35 WORKBENCH HELPS

Every step of this guide, in one controlled process

Find out more at ir35workbench.co.uk, or email us to arrange a conversation.

IR35 Workbench for your organisation

A role library, structured line manager assessments, contractor input by email, sign-off by your signatory, expert review for borderline cases, and a signed SDS issued to every party, all recorded.

See how it works →

Full IR35 Assessment

Assess a single contractor you engage or plan to engage. You pay £85 + VAT (£102.00), and the contractor is invited to give their side. They are never asked to pay.

Start as the hirer →

Free IR35 contract check

Upload a contract and get a clause-by-clause report on how its terms read under IR35. Contract only, in about 10 minutes.

Check a contract →

IR35 Workbench
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