



Response from ICAS

HM Revenue & Customs
Off-payroll working in the private sector from April 2020

28 May 2019

About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The ICAS Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 board and committee members.
2. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

General Comments – Key issues

4. ICAS welcomes the opportunity to respond to the consultation document 'Off-payroll working in the private sector from April 2020', issued by HMRC on 5 March 2019. We were also pleased to host a meeting at ICAS and attend other meetings with officials to discuss the consultation.
5. It remains clear from representations made to us by members that, in spite of the assertions made in both the independent report and HMRC factsheet which were published a short time after the public sector regime was introduced, the new public sector IR35 regime has impacted both private and public sector labour market in terms of flexibility and depth of the recruitment pool for project-based engagements. The introduction of a revised regime in the private sector will undoubtedly also further influence that already in place in the public sector.
6. ICAS understands that the estimated tax gap of £1.3bn relating to IR35 non-compliance (by 2023/24) has been formulated on a similar basis to that in Budget 2016 in respect of the public sector in terms of collected data relating to Companies House registrations, Self-Assessment and corporation tax. ICAS understands the methodology and assumptions undertaken by KAI in the 2016 calculations were approved by the Office for Budget Responsibility and a costing was provided at page 38 of: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508147/PU1912_Policy_Costings_FINAL3.pdf. It was noted that "the main uncertainties in this costing relate to the size of the tax base and behavioural response".
7. However, ICAS considers that there is a great degree of uncertainty in relation to this tax gap figure, as well as the costing and methodology. This is mainly because of the lack of explanatory evidence to support it in the public domain. The Office for Budget Responsibility produced a figure of £661m in its forecasts for the same year (2023/24).
8. The main problem for employers, whether in the public or private sector, is that none of them is an expert in employment status, but the new IR35 regulations for the public sector and now for large and medium sized employers place an obligation on employers to suddenly have a comprehensive understanding of an unfamiliar and complicated legal and taxation concept, where in a majority of cases, none was required before. Widespread non-compliance may therefore ensue due to a lack of understanding – or alternatively – incorrect status decisions may be made.

9. ICAS understands that the HMRC response to the employment status consultation which concluded on 6 June 2018 is due to be published “towards the end of the 2019 calendar year”. It would have been helpful if this had been published in conjunction with this consultation because employment status is the lynchpin which holds IR35 together.
10. There is also a major conflict between employment law and employment taxation in terms of the former taking consideration of three statuses (employee, worker and self-employed) whilst tax takes account of two – both of which are further complicated by IR35 legislation and the consideration of a hypothetical contract. Most of this is simply beyond the knowledge of those individuals left to make a decision in procurement, finance and payroll departments, and is therefore highly likely to either be ignored or approached incorrectly in many cases. This may be especially so in medium sized businesses where taking professional advice is not necessarily an option.
11. Blanket application of the IR35 rules for the public sector in a number of cases has led to an additional cost burden to public sector bodies, which has an impact on public body budgets. In addition, there have been other unintended consequences such as VAT consequences, recruitment and retention impacts on continued service provision, re-negotiation of rates by contractors, cuts to services and headcount reductions in other areas of the business. The complete lack of transparency on this issue has not been in the best interests of public sector employers. Care needs to be taken to avoid such a scenario in the private sector, which may lead to disputes and increased FTT and Employment Tribunal appeals, where individuals are treated as employees without access to the accompanying employment rights conferred on their employed colleagues.
12. The real issue is that the IR35 regime, introduced 19 years ago, has not worked (90% non-compliance) and is unlikely ever to work as the Government originally intended. It is complicated, opaque, expensive and as such, a deterrent to widespread compliance.
13. ICAS considers that in relation to both public and private sector regimes, it is not in fact the IR35 legislation which needs to be changed. This is because someone trading through a limited company as a director should be wholly responsible for accounting for any income derived from that business either by way of earned income or dividend income, which are both acceptable and legal ways of extracting remuneration. Taxpayers need certainty and it is not in anyone’s best interests to keep changing legislation to make remuneration extraction taxable on a third party unconnected with that PSC other than by way of a business to business relationship.
14. The Companies Act and Insolvency Act should instead be examined and reconfigured to *compliment* the PSC legislation to ensure that the purpose of setting up a limited company or partnership and its activities are consistent with that of a genuine business activity (taking into account risk and other “badges of trade”) and going further to prevent liquidations and phoenixism in certain circumstances. The issues around unregulated umbrella companies, managed service companies and accountants “acting” for PSCs should also be reviewed in this context so that appropriate redress can be sought in clear cases of collaborative avoidance. Corporation tax returns could also be changed to incorporate different requirements where there is a “1+1” PSC.

General Comments – Other issues

15. The Tax Impact Information Note (TIIN) issued by HMRC in March 2017 at <https://www.gov.uk/government/publications/off-payroll-working-in-the-public-sector-changes-to-the-intermediaries-legislation/off-payroll-working-in-the-public-sector-changes-to-the-intermediaries-legislation> as well as the previous TIIN of 5 December 2016 highlighted the Government’s reluctance to acknowledge this issue because they both concentrate in the main on the positive impact to the Exchequer and the negligible impact on both one-off and ongoing administration costs for public bodies, and chose to ignore the most important fact of all - tax impact – i.e. that there would be a significant cost impact to those public sector bodies who deemed workers providing services through intermediaries liable to IR35 (public sector) and had to place them on the payroll.

The statement that “Ongoing costs for accounting and reporting through Real Time Information and using the digital tool are expected to be negligible” is clearly misleading and rather disingenuous. The costings within the document provide details of the benefit to the Exchequer over time together with the additional benefit of the removal of the 5% expenses allowance, and some admin burden costings. The costings failed to set out the estimated secondary Class 1 NICs liability for public bodies, which is opaque and does nothing to reduce complexity for deemed employers and their professional advisers in this space.

16. The factsheet accompanying the last consultation document also failed to make specific mention of the fact that the reporting and NICs burden has shifted from the intermediary business to the public sector body and actually states: “This consultation is about increasing compliance with the existing rules – not introducing a new tax. Who would be affected by reform to these rules? The off-payroll working rules only affect people working like employees and through a company, and this is not going to change”. This statement must be incorrect, because the additional revenues flowing into the exchequer must by default represent secondary NICs paid by public authority employers, which is a visible shift in the cost burden from PSCs to employers. HMRC has failed to acknowledge this point in its insistence in imposing a similar set of obligations upon private sector engagers/ fee payers.
17. ICAS understands that no further TIINs have been produced (since the one mentioned above at point 13 of this response) in relation to the introduction of IR35 in the private sector. The only information available in relation to this round of consultation is therefore contained within the policy paper accompanying this consultation document. Our comments at 6 and 7 above refer.
18. The CBI has called for a delay in the roll-out to the private sector because the public sector regime is still ostensibly under trial; Brexit is impacting business; and because there are still no outcomes from the employment status consultation which closed last 6 June. ICAS echoes this standpoint.
19. Concerns remain in relation to public bodies who may have accounted for payroll taxes where none were, in fact, due (i.e. operating a “blanket” policy). This is neither effective nor helpful as it could result in higher costs for public bodies in delivering its projects as well as potentially causing unwarranted trade, employment and tax tribunal disputes. In the private sector, blanket status decisions may also happen, invariably leading to similar issues.
20. HM Government must recognise that implementation costs are not the only costs which have arisen in the public sector and therefore neither will they be in the private sector. Not only has the reporting responsibility shifted from intermediaries to engagers, but also the fee payer’s cost base, due to the added secondary Class 1 NICs liability. Ongoing administrative, software, professional advisory and learning and development costs, to name but a few, will also become embedded in this process.
21. In terms of the ongoing discussions relating to mutuality of obligation (MOO) and the CEST tool, ICAS remains firmly of the belief that HMRC’s stance on MOO should be reconsidered. HMRC has reaffirmed on numerous occasions that it believes MOO is not relevant because it is already present in every contractual situation, whether a contract for services or of service. However, MOO does not establish that *any* kind of contract exists. It establishes that there is an irreducible minimum set of obligations for an *employment* contract to exist. As the IR35 legislation is not determining employment status - i.e. whether there is an “employment” or a “self-employment”, then this test is rendered null and void. By assuming that MOO is already present, HMRC is negating the need for a CEST decision to be made as it is effectively stating that an employment relationship is already present.

22. In the recent Westminster Hall debate of 4 April, Ruth Cadbury MP is recorded as saying: "The importance of mutuality of obligation is demonstrated by the recent tribunal case of Dr R Narayan v. Community Based Care Health Ltd—I can make the details available. In the supply of people to NHS trusts, there appears to be no mutuality of obligation. The worker can cancel a shift at any time and will not be paid, which is key to that case. The NHS trust can cancel a shift at any time, and the worker will not be paid, as confirmed in the contracts of the agency I mentioned. However, 99% of the agency workers are blanket-assessed inside IR35 and forced into unlawful employment." This evidence seems to represent a clear demonstration of the flaws in the existing public sector regime.
23. If IR35 legislation is to continue to exist and try to function properly, the CEST tool must be much more flexible and agile. At present, it is impossible in many cases to provide accurate information (the only basis upon which HMRC will stand by the decision made) because there are two options to choose from – and in many cases, the answer is "none of the above". Thus, the answer being given is "more like A" or "more like B" which is clearly inadequate. Again, additional HMRC resources are required to ensure that the CEST tool is efficient, effective and reliable – otherwise, it remains a waste of taxpayers' money.
24. HMRC states that research shows 60% of results are in favour of the contractor not being in a deemed employment. At present, the CEST tool is capable of being manipulated to obtain the desired response (although ICAS has not obtained any data on how widespread this is - we have simply carried out our own experiments). How can HMRC be certain that there are not more than 40% of contractors who are in deemed employments? Without doubt, individuals are in the weaker bargaining position, resulting in them being classified as employees without rights. Is this, therefore, actually working against the principles established in the Good Work Plan? Bearing in mind that HMRC has to date lost 50% of the cases which have come to court, why is it still considered to be a good idea to pursue this regime? Given that there is no viable appeals process, does this also represent a barrier to natural justice?
25. HMRC has once again been keen to reassure stakeholders that despite maintaining that revised private sector legislation will be incorporated into the current IR35 regime by April 2020, no final decisions will be taken by ministers on exactly how the proposed scheme will play out. ICAS is supportive of this stance, because despite indications to the contrary from HMRC, the introduction of the public sector regime has proved problematic and it is still in its infancy. The private sector conversion is an altogether more complicated affair with numerous considerations which are not inherent in the public sector.
26. It is vital that HMRC creates an education piece for small businesses who are or might be on the cusp of transitioning into a medium business. We understand that HMRC intends to roll out an education project and will refrain from using punitive measures in this regard over a number of years from April 2020.
27. Many businesses may be unrepresented; or some may engage an agent. However, this may only be for accounting services and not necessarily cover tax services. The terms of engagement will specify the precise terms of the services to be supplied. An agent should not advise on aspects falling outside the scope of these terms.

Specific responses to questions

Q1 – Do you agree with taking a simplified approach for bringing noncorporate entities in to scope of the reform? If so, which of the two simplified options would be preferable? If not, are there alternative tests for non-corporates that the government should consider? Could either of the two simplified approaches bring in to scope entities which should otherwise be excluded from the reform? Is it likely to apply consistently to the full range of entities and structures operating in the private sector? Please explain your answer.

28. Ideally the non-corporate test would involve discarding the balance sheet test and instead concentrate on number of employees and turnover. This would likely result in the inclusion of all but the small charities. Operating a simplified scheme would be the least controversial, but it should still be borne in mind that bringing in one regime for small and medium sized private sector entities means that we now have three types of IR35 regime. If the non-corporate regime had its own qualifying conditions, this would be a fourth.
29. There may also be moves to put all contractors through a non-corporate body in order to avoid operating the new regime so suitable anti-avoidance provisions would need to be considered. The current guidance on connected companies is unclear and needs revising before the next tax year begins. Non corporate bodies' income can change on a year by year basis due to grant funding and legacy donations etc. as well as being ring-fenced for a designated purpose. This must be taken into account where a turnover test is required.
30. ICAS understands that anti-avoidance regulations are to be introduced to prevent disaggregation of large businesses to discourage businesses from becoming small to exclude themselves from this regime. However, the question remains: some small businesses may not wish to become bigger, which will bring them in to the regime. Is this likely to stifle entrepreneurship and growth in the longer term?

Q2 – Would a requirement for clients to provide a status determination directly to off-payroll workers they engage, as well as the party they contract with, give off-payroll workers sufficient certainty over their tax position and their obligations under the off-payroll reform? Please explain your answer.

31. It may provide some with certainty. Others may dispute the conclusions reached. Others may choose to appeal to the Finance and Tax Tribunal or indeed to the Employment Tribunal in relation to the classification because they have been classified as a quasi-employee but without the associated employment rights. Some may trust the methodology and approach taken by the client whereas others may not. It will need to be examined on a case by case basis. We are also aware that organised criminal entities operating in the sphere of payroll fraud could target clients and fee-payers with a bespoke "solution".

Q3 – Would a requirement on parties in the labour supply chain to pass on the client's determination (and reasons where provided) until it reaches the fee-payer give the fee-payer sufficient certainty over its tax position and its obligations under the off-payroll reform? Please explain your answer.

32. As per our response to question 2, different outcomes could ensue, dependent upon whether each party in the chain fulfils its obligations. In some cases, this will happen, whilst in others it will not. It will be likely to take time in some instances to obtain the determination and the reasoning where necessary, which could result in delays of payment to the contractor. If this happens, some contractors could potentially find themselves at a financial disadvantage. Some will need to claim Universal Credit.

Q4 - What circumstances may result in a breakdown in the information being cascaded to the fee-payer? What circumstances might result in a party in the contractual chain making a payment for the off-payroll worker's services but prevent them from passing on a status determination?

33. Whilst the vast majority of relationships are likely to be relatively simple and it makes sense for the engager to tell the worker, there are other considerations. Interactions with other legislation (or misunderstandings as to the implications of other legislation preventing information flows such as corporate criminality and GDPR need to be considered in this context. Otherwise, parties in the chain may just simply forget, not be available to carry out a determination, or neglect their obligations within the supply chain. The speed at which many private sector businesses require to operate to maintain market agility requires flexibility. It may be the case that they are simply too busy to complete the administrative tasks at the right time. It seems odd that this regime "trumps" CIS. CIS is already functioning well and is well known to those who are involved in it. This change may confuse matters.

Q5 – What circumstances would benefit from a simplified information flow? Are there commercial reasons why a labour supply chain would have more than two entities between the worker's PSC and the client? Does the contact between the fee-payer and the client present any issues for those or other parties in the labour supply chain? Please explain your answer.

34. Please see our responses to questions 6,8 and 9 below.

Q6 – How might the client be able to easily identify the fee-payer? Would that approach impose a significant burden on the client? If so, how might this burden be mitigated? Please explain your answer.

35. It may not be practical or even possible for the client to identify the fee payer. Depending on the relationships within the chain, the client may never find this out, or may not wish to incur too much time and expenditure trying to find out.

Q7 - Are there any potential unintended consequences or impacts of placing a requirement for the worker's PSC to consider whether Chapter 8, Part 2 ITEPA 2003 should be applied to an engagement where they have not received a determination from a public sector or medium/large-sized client organisation taking such an approach? Please explain your answer.

36. If the requirement under the new regime is for the engager to issue a determination and supply this to the PSC, then the PSC should be empowered to contact HMRC to force a determination where this is not forthcoming. It is unlikely that if a PSC does not receive a determination, they will consider Chapter 8. This has not been the practice in most PSCs for the last 19 years so it does not seem likely that it will happen now.

Q8 – On average, how many parties are in a typical labour supply chain that you use or are a part of? What role do each of the parties in the chain fulfil? In which sectors do you typically operate? Are there specific types of roles or industries that you would typically require off-payroll workers for? If so, what are they?

37. ICAS understands that most labour chains are likely to be relatively simple, but it is known in the oil and gas, finance and banking and construction sectors for example, that some supply chains can be very lengthy. In many cases, some companies will be unaware that they are the client. The public sector guidelines are not necessarily compatible with outsourced contracting arrangements. When vendor management systems are set up to enable agencies to share workers this can lengthen the chain of supply considerably.

Q9 – The intention of this approach is to encourage agencies at the top of the supply chain to assure the compliance of other parties, further down the chain, through which they provide labour to clients. Does this approach achieve that result?

38. At present it is unclear what trends will emerge and whether the Government's aims will be achieved. ICAS has concerns that HMRC appears to be stepping away from the dispute resolution process.

Q10 – Are there any potential unintended consequences or impacts of collecting the tax and NICs liability from the first agency in the chain in this way taking such an approach? Please explain your answer.

39. Not all individuals, for various reasons, are eligible to pay NICs. This needs to be considered when the fee-payer is calculating the deductions from the deemed payments. Also, if an incorrect status determination is made, guidance needs to be made available as to how to claim back the income tax, and specifically, the NICs. Obtaining a refund of contributions is notoriously complex.
40. From an accounting perspective there could be increased complexity in terms of the various parties assessing whether there are any contingent liabilities, provisions, or when such might crystallise.

Q11 - Would liability for any unpaid income tax and NICs due falling to the client (if it could not be recovered from the first agency in the chain), encourage clients to take steps to assure the compliance of other parties in the labour supply chain?

41. In some cases, this may work. However, HMRC must be aware that if a party within the supply chain becomes liable for something it was not expecting to have to pay, it could result in serious financial consequences depending on the level of the payment involved. It may be better to consider extending Regulation 72 of the Income Tax (PAYE) Regulations 2003 to ensure that the original fee-payer is and remains liable for the payment. Otherwise a "blame game" may be created, with parties in the chain disappearing, closing down, entering into disputes (which could take time to resolve, especially if they come to court).

Q12 – Are there any potential unintended consequences or impacts of taking such an approach? Please explain your answer.

42. HMRC must provide for the defence of reasonable care where liability is being passed up the chain of supply. The existing agency intermediary rules do not align with the notion of transferring down the chain until the liability rests with the client unless a fraudulent documentation process can be identified.

Q13 – Would a requirement for clients to provide the reasons for their status determination directly to the off-payroll worker and/or the fee-payer on request where those reasons do not form part of their determination impose a significant burden on the client? If so, how might this burden be mitigated? Please explain your answer.

43. All clients must be given the opportunity to prepare fully for the commencement of the new regime. This should involve supporting them in terms of how to defend the decisions they are making on the status of the workers for tax purposes. An engager should be able to demonstrate that he has used sound reasoning – perhaps a white space on the CEST tool will facilitate the reasoning to be set out in addition to the questions being answered.
44. The difficulty is that many engagers will never fully understand this complicated process. Many will fail to keep proper records – especially at the smaller end of what is classified as medium-sized business. Delays and disputes may well occur. In addition, the client must provide a determination within 31 days under the new regime. If this does not happen, how long might it take for the determination to be provided in the event of a dispute?

Question 14 – Is it desirable for a client-led process for resolving status disagreements to be put in place to allow off-payroll workers and fee-payers to challenge status determinations? Please explain your answer.

45. The risk in this scenario is that a resolution cannot be brought about and the lack of a formal appeals process denies the parties a pathway to natural justice.

Question 15 – Would setting up and administering such a process impose significant burdens on clients? Please explain and evidence your answer.

46. ICAS imagines that it would impose significant burdens on clients due to the need to maintain comprehensive records, possibly engage professional advisors (cost and time), and ensure that the right knowledge is applied to the circumstances, which requires time, training and cost. Clients have not had to consider doing this before now and as such, from a knowledge standpoint, they are starting from scratch. Understanding employment status and determining it is not a simple process. The added uncertainty of not having any outcomes from the employment status consultation which closed last 6 June is not assisting anyone and the longer this takes to be produced, leaves less time for employers to prepare prior to 6 April 2020.

Question 16 – Does the requirement on the client to provide the off-payroll worker with the determination, giving the off-payroll worker and fee-payer the right to request the reasons for that determination and to review that determination in light of any representations made by the off-payroll worker or the fee-payer, go far enough to incentivise clients to take reasonable care when making a status determination?

47. Any IR35 regime imposed upon the private sector would require a minimum number of steps and be capable of assisting businesses to obtain the flexible engagements they need to remain competitive and provide the right services to customers.
48. All aspects of the penalty regime in connection with IR35 in the private sector need to be considered, including the appeals process. This would need to take account of the appropriateness of imposing a penalty at every stage of the process where it could be determined that a failure to comply or failure to report has taken place. The corresponding appeals process within the public sector regime would also need to be reviewed.
49. In a similar way, the appeals process at every stage also needs to be considered as well as the dispute resolution process and tribunal requirements. In addition, the method by which a deemed employer is able to claw back overpaid employer NICs needs to be looked at, where the PSC appeals against the IR35 decision and this is upheld.

Question 17 – How likely is an off-payroll worker to make pension contributions through their fee-payer in this way? How likely is a fee-payer to offer an option to make pension contributions in this way? What administrative burdens might feepayers face which would reduce the likelihood of them making contributions to the off-payroll worker's pension?

50. It is unlikely that given the fee-payer would not be able to set up a "one size fits all" scheme such as NEST to contribute into its contractors' pension pots, it would probably be impracticable for the fee-payer to pay into a multitude of small pension pots for limited amounts of time, given the administrative burden and time this would take to put into effect and maintain. There are also issues with pensions taper as well as the tax relief that Scottish taxpayers may need to claim under self-assessment where they pay intermediate rates of income tax. An alternative might be for the PSC to be permitted to earmark part of its net receipt of income as destined for the pension pot and claim back the tax and NICs which had been paid by the fee payer through Self-Assessment in some way.

Question 18 - Are there any other issues that you believe the government needs to consider when implementing the reform? Please provide details.

51. There needs to be more HMRC resources on the ground. At present, HMRC has been unable to effectively police the existing IR35 regime for the last 18 years. If a new regime is brought in, significant investment in the employer compliance function needs to be brought about.
52. Care needs to be taken not to affect growth and productivity in the private sector especially at such a crucial time for the UK in the midst of the EU withdrawal. Significant impacts on the economy could result.
53. In addition, there are some regional differences and devolution also has a part to play. Businesses in London would be likely to operate in a different way to those in North Yorkshire, and the oil and gas sector in Aberdeen operates differently to the financial services sector in Edinburgh and the gaming sector in Edinburgh/Dundee. Any new tax regime must aim to aid business growth and not provide barriers to business development. Start-up technology businesses do not need any staff but instead rely on others' expertise and yet could be caught by IR35 at a crucial stage of their development. If a product reaches the market, this is the time to hire staff.
54. It would be better if engagers in the private sector did not become "deemed employers" and did not have to open a payroll to deduct PAYE and NICS from contractor payments. Ideally, some form of CIS style withholding could be imposed instead. In that way, it is the PSC which is suffering the deduction and not the engager. Some businesses will run into serious cash flow difficulties if they are required to deduct and pay over large amounts of PAYE and NICS where this was not required before.
55. IT solutions can be brought in to calculate the withholding and record the details of the PSC so that the PSC has paid an amount on account of the final tax liability for the year. This would achieve three things simultaneously: The PSC makes regular payments on account; HMRC gets a regular inflow of revenue and the engager is not burdened with having to bear additional NICs costs.
56. Due to the fact that the term "private sector" is so widely drawn that it covers any business which is not deemed to be in the public sector and some charities, this means that everything from university spin-out companies, to start-ups, to micro-businesses as well as SMEs and large business are brought in to the scope of any potential new regulations. Each of these businesses will have different capacity to acquire administrative capacity, knowledge and resources. The size of a business does not necessarily determine this however – some businesses are more cash-rich than others even though they are much smaller.
57. The elephant in the room is, of course, the substantial cost of employer NICs. Fee payers will have to pay a tax charge (if NIC is considered to be a tax) on engaging a contractor who does not work for them directly, and to whom they are offering no employment rights.
58. Businesses need simplicity. Training workshops and webinars would help but overall the burden on employers is going to be significant if these measures are brought in. Implementation time needs to be factored in so that businesses have the opportunity to prepare properly. An April 2020 introduction would simply not allow enough time in our opinion.
59. There is a risk both in the public and private sectors that the engager will find themselves on the wrong end of an employment tribunal claim which can incur significant cost for the engager. It is vital that engagers are given the opportunity and the tools and knowledge to make the right decisions about those they engage, whether through PSCs or otherwise.