GIG CYMRU NHS WALES | Iechyd Cyhoeddus Cymru Public Health Wales	**Reference Number:** CwIFCP26 **Version Number:** 1.0 **Date of Next review:** TBC

CONTRACTING WITH INDIVIDUALS OR THEIR PERSONAL SERVICE COMPANIES (PSCS) FINANCIAL CONTROL PROCEDURE

Introduction and Aim

Public Health Wales (PHW) engages individuals to provide services through a variety of arrangements, including self-employed individuals, Personal Service Companies (PSCs), and employment agencies. These arrangements are commonly used to deliver consultancy services, support specific projects, or provide short-term cover for roles where recruitment through standard processes has not been possible. Such engagements may be on a fixed-term or ad hoc (daily rate) basis.

In most cases, short-term resourcing requirements are met through employment agencies, which account for the majority of off-payroll engagements. However, PHW may also appoint contractors directly. These may include individuals who consider themselves self-employed (including those registered as such with HMRC), as well as individuals operating through PSCs. PSCs are limited companies typically owned and controlled by one or more individuals.

The aim of this procedure is to ensure that Public Health Wales engages contractors in a compliant, consistent, and transparent manner, in line with HMRC off-payroll working (IR35) requirements. This includes ensuring that:

- The employment status of all off-payroll engagements is assessed appropriately
- The correct tax treatment (including PAYE and National Insurance Contributions) is applied
- Risks associated with non-compliance are minimised
- Managers understand their responsibilities when engaging contractors

Linked Policies, Procedures and Written Control Documents

Other written control documents which have been identified to have interdependencies with this procedure and should therefore be read in conjunction with, include;

- Standing Financial Instructions

Scope

This procedure applies across Public Health Wales and relates to all individuals involved in the engagement, approval, procurement, or management of contractors. This includes arrangements involving self-employed individuals, Personal Service Companies (PSCs), and workers engaged through employment agencies.

It applies to all managers and staff responsible for commissioning, reviewing, or managing off-payroll engagements and ensures that such arrangements are compliant with IR35 and associated tax legislation.

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Accountable Executive Director/Director	Zoe Pietrzak, Executive Director of Strategy, Finance and Performance
Author	Ian Kent, Head of Financial Reporting and Control

Disclaimer

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Summary of reviews/amendments				
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1 Introduction

Public Health Wales (PHW) engages individuals to provide services through a range of arrangements, including self-employed individuals, Personal Service Companies (PSCs), and employment agencies. These arrangements are typically used to deliver consultancy services, support specific projects or programmes of work, or provide short-term cover where recruitment through standard processes has not been possible. Such engagements may be on a fixed-term or ad hoc (daily rate) basis, with the majority of off-payroll arrangements being facilitated through employment agencies.

In some cases, PHW appoints contractors directly. These may include individuals who consider themselves self-employed (including those registered as such with HMRC), as well as individuals operating through PSCs. PSCs are limited companies typically owned and controlled by one or more individuals. Regardless of the route of engagement, all such arrangements must be assessed to determine the correct employment status for tax purposes.

The off-payroll working rules (commonly referred to as IR35) were introduced in April 2000 and reformed in April 2017 for the public sector. These reforms place responsibility on the engaging organisation to determine the employment status of individuals providing services through intermediaries. Public Health Wales is therefore required to assess all contractor engagements prior to appointment to determine whether they should be treated as employed or self-employed for tax purposes.

To support this process, HMRC provides the Check Employment Status for Tax (CEST) tool, which assists in determining whether an engagement falls inside or outside IR35. This assessment is a key element of ensuring that contractors are engaged appropriately and that the correct tax treatment is applied.

2 Scope

This procedure applies across Public Health Wales and relates to all individuals involved in the engagement, approval, procurement, or management of contractors. This includes arrangements involving self-employed individuals, Personal Service Companies (PSCs), and workers engaged through employment agencies.

It applies to all managers and staff responsible for commissioning, reviewing, or managing off-payroll engagements and ensures that such arrangements are compliant with IR35 and associated tax legislation.

3 Objectives

The objectives of this procedure are to ensure that Public Health Wales adopts a consistent, compliant, and transparent approach to the engagement of contractors and off-payroll workers. Specifically, the policy aims to:

- Ensure all contractor engagements are assessed for employment status in line with IR35 legislation before the commencement of any contract
- Ensure that the correct tax treatment, including Pay As You Earn (PAYE) and National Insurance Contributions (NIC), is applied in accordance with the outcome of the status determination
- Clarify the roles and responsibilities of managers, procurement, and other relevant teams in the engagement and management of contractors
- Minimise the risk of non-compliance with HMRC requirements and associated financial, legal, and reputational risks
- Promote consistency in the use of assessment tools (such as CEST) and the application of employment status determinations across the organisation
- Ensure that all off-payroll arrangements are subject to appropriate governance, oversight, and review

4 Roles and responsibilities

To ensure compliance with off-payroll working legislation (IR35), effective financial control, and appropriate governance, clear responsibilities are assigned throughout the contractor engagement process.

Recruiting Manager

The Recruiting Manager is responsible for:

- Identifying the business need for a contractor and considering whether the requirement could be met through substantive, fixed-term, bank, or agency staffing arrangements before engaging a contractor.

- Ensuring that an employment status assessment is completed using HMRC's Check Employment Status for Tax (CEST) tool before any engagement commences.
- Providing accurate information to support the status determination process.
- Ensuring that a Status Determination Statement (SDS) is issued to the contractor and any relevant agency before services commence.
- Ensuring that working arrangements remain consistent with the employment status determination throughout the engagement.
- Reviewing the employment status of contractors where contracts are extended or working arrangements change.
- Maintaining appropriate records to support the engagement and determination process.

Budget Holder

The Budget Holder is responsible for:

- Ensuring that sufficient budget provision exists before a contractor engagement is approved.
- Confirming that the engagement represents value for money and is necessary to meet organisational objectives.
- Monitoring expenditure against approved budgets throughout the duration of the engagement.
- Ensuring that all contractor costs are appropriately authorised in accordance with Public Health Wales' Scheme of Delegation and Standing Financial Instructions.
- Challenging and reviewing the continued need for long-term contractor arrangements.

Procurement

Procurement is responsible for:

- Ensuring that contractor engagements comply with Public Health Wales procurement procedures and relevant procurement legislation.
- Advising managers on the appropriate procurement route for contractor engagements.
- Supporting the engagement of contractors through approved framework agreements where applicable.
- Ensuring appropriate contractual documentation is in place before services commence.
- Maintaining oversight of supplier and agency compliance with contractual and regulatory requirements.
- Providing advice where specialist consultancy, outsourced services, or non-standard engagement arrangements are proposed.

Finance
The Finance Department is responsible for:

- Providing advice on the financial and tax implications of contractor engagements.
- Supporting managers in ensuring that the correct payment route is used following the employment status determination.
- Ensuring that payments are processed in accordance with the outcome of the IR35 assessment and applicable legislation.
- Monitoring contractor expenditure and supporting compliance reviews where required.
- Maintaining oversight of off-payroll engagements and supporting internal and external audit requirements.
- Escalating any identified instances of non-compliance with this procedure.

People and Organisational Development (POD)
People and Organisational Development is responsible for:

- Supporting recruitment activity where the requirement is more appropriately met through substantive, fixed-term, or bank employment arrangements.
- Providing advice regarding pre-engagement checks and onboarding requirements.
- Supporting managers in understanding the distinction between employment and contractor arrangements.
- Working collaboratively with Finance and Procurement where employment status or engagement arrangements require clarification.

5 Procurement and Recruitment

Where an individual is engaged as a Public Health Wales employee, including on a permanent, fixed-term or bank basis, the People & Organisational Development (POD) team will support the recruitment and onboarding process in line with the organisation's recruitment and selection procedures. Individuals engaged through these routes will be paid via the payroll and all appropriate PAYE and National Insurance contributions deducted. These arrangements are not within scope of the off-payroll working/IR35 rules as the individual is engaged directly by Public Health Wales and paid through payroll.

The Recruiting Manager is responsible for ensuring that an appropriate status assessment is undertaken. People and Organisational Development (POD) will provide advice and support where pre-appointment checks are required for individuals who fall within the scope of the off-payroll working rules.

Contractors engaged through an agency and classified as off-payroll workers will be sourced through agencies operating under a Framework. NHS Wales Shared Services Partnership (NWSSP) Procurement is responsible for managing these framework arrangements and ensuring that agencies comply with the requirements of the off-payroll working (IR35) legislation.
Most agency workers engaged through NHS Wales framework arrangements will be subject to PAYE and NIC deductions operated by the agency as fee-payer. Managers should seek advice where alternative arrangements are proposed.
Consequently, the agency is responsible for operating PAYE and National Insurance Contributions (NICs) and for accounting for these deductions appropriately.

Contractors who are self-employed or operate through a Personal Service Company (PSC) and wish to undertake work for Public Health Wales must be engaged in accordance with the organisation's procurement and approval requirements.
As part of the engagement process, assurances must be obtained that the appropriate tax treatment will be applied in line with the IR35 determination. This includes ensuring that PAYE and National Insurance Contributions (NICs) are deducted by the fee-payer where the engagement falls within IR35.

The table below summarises the responsibilities for determining employment status for tax purposes and liability for PAYE and NICs. Public Health Wales has a duty to ensure that all contractors providing services—whether self-employed, engaged through a PSC, or supplied via an agency—are subject to the correct tax treatment. Where an engagement is determined to fall within IR35 and is akin to employment, Public Health Wales, or the relevant fee-payer, must ensure that PAYE and NICs are deducted at source in accordance with applicable legislation.

	An Individual	A UK PSC	An individual or PSC through a UK Agency	A PSC through a UK Agency	A PSC through a UK consultancy or outsourcing specialist
Who determines tax status?	PHW	PHW	PHW with information from the agency	PHW with information from the agency	Consulting or outsourcing specialist with information from PHW
Determination	Employed	Employed	Employed	Employed	Employed
Liability to PAYE / NIC?	PHW[1]	PHW[1]	Agency[2]	Agency[2]	Consulting or outsourcing specialist[2]
Determination	Not employed	Not employed	Not employed	Not employed	Not employed
Liability to PAYE / NIC?	Individual[3]	UK PSC[3]	Agency[4]	Agency[4]	Consulting or outsourcing specialist[4]

[1]Where a contract is deemed to be employed and the individual or PSC is paid via PHW payroll, its payroll will account for, process and pay the PAYE and NIC to HMRC.
[2]Where a contract is deemed to be employed and the individual or PSC is paid through an Agency, its payroll will account for, process and pay the PAYE and NIC to HMRC. The same applies to where contractor is employed through Consultancy.
[3]In the case of a contract classed as not employed and paid direct to individual or PSC the contractor is liable to account for, process and pay PAYE and NIC to HMRC.
[4]In the case of a contract classed as not employed and paid via Agency or consultancy, those bodies will determine if they or the contractor is liable to account for, process PAYE and NIC and pay to HMRC because they have all appropriate information appertaining to their relationship with the contractor.

6 Process – Determining the Employment Status

HMRC provides a tool, Check Employment Status for Tax (CEST), to support the determination of employment status for tax purposes. This can be accessed at:

https://www.gov.uk/guidance/check-employment-status-for-tax

The tool is designed to assess the nature of an engagement rather than the individual and helps determine whether the engagement falls inside or outside of IR35. The outcome will determine how the contractor is to be taxed. The quality and accuracy of information entered into CEST remains the responsibility of Public Health Wales.

Managers must ensure that an employment status assessment is completed before any contract is issued. Public Health Wales will issue a Status Determination Statement (SDS) for each engagement, confirming the outcome and the reasons for the determination.

There are two possible outcomes:

Outcome 1: Inside IR35 (Employed for tax purposes)
The engagement is deemed to be employed for tax purposes. In such cases, PAYE tax and National Insurance Contributions (NIC) must be deducted by the fee-payer (either Public Health Wales or the agency, as applicable).

Outcome 2: Outside IR35 (Not employed for tax purposes)
The engagement is deemed to be self-employed for tax purposes. In these cases, the contractor (or their PSC) is responsible for managing their own tax and NIC obligations.

Where an engagement is determined to be inside IR35, the contractor must be engaged using the appropriate contractual arrangements provided by Procurement, and payments will be subject to PAYE and NIC. Managers should consider whether the requirement would be more appropriately met through substantive, fixed-term or bank recruitment arrangements.

All CEST outputs, SDSs and supporting documentation should be retained in accordance with PHW records management requirements and be available for audit review.

A detailed flowchart showing all steps in the Process is shown in Appendix 1

7 Next Steps

The approach outlined above has been in place since April 2017. Assurance has been obtained from agencies to ensure that appropriate PAYE tax and National Insurance Contributions (NIC) are applied for all contractors supplied to Public Health Wales. Any new agencies added to the procurement framework are also required to provide this assurance.

Line managers must review all ongoing contractor engagements and ensure that an employment status assessment is undertaken for any new or extended contracts using the HMRC Check Employment Status for Tax (CEST) tool. Employment status should be kept under review, particularly where contracts are extended or working

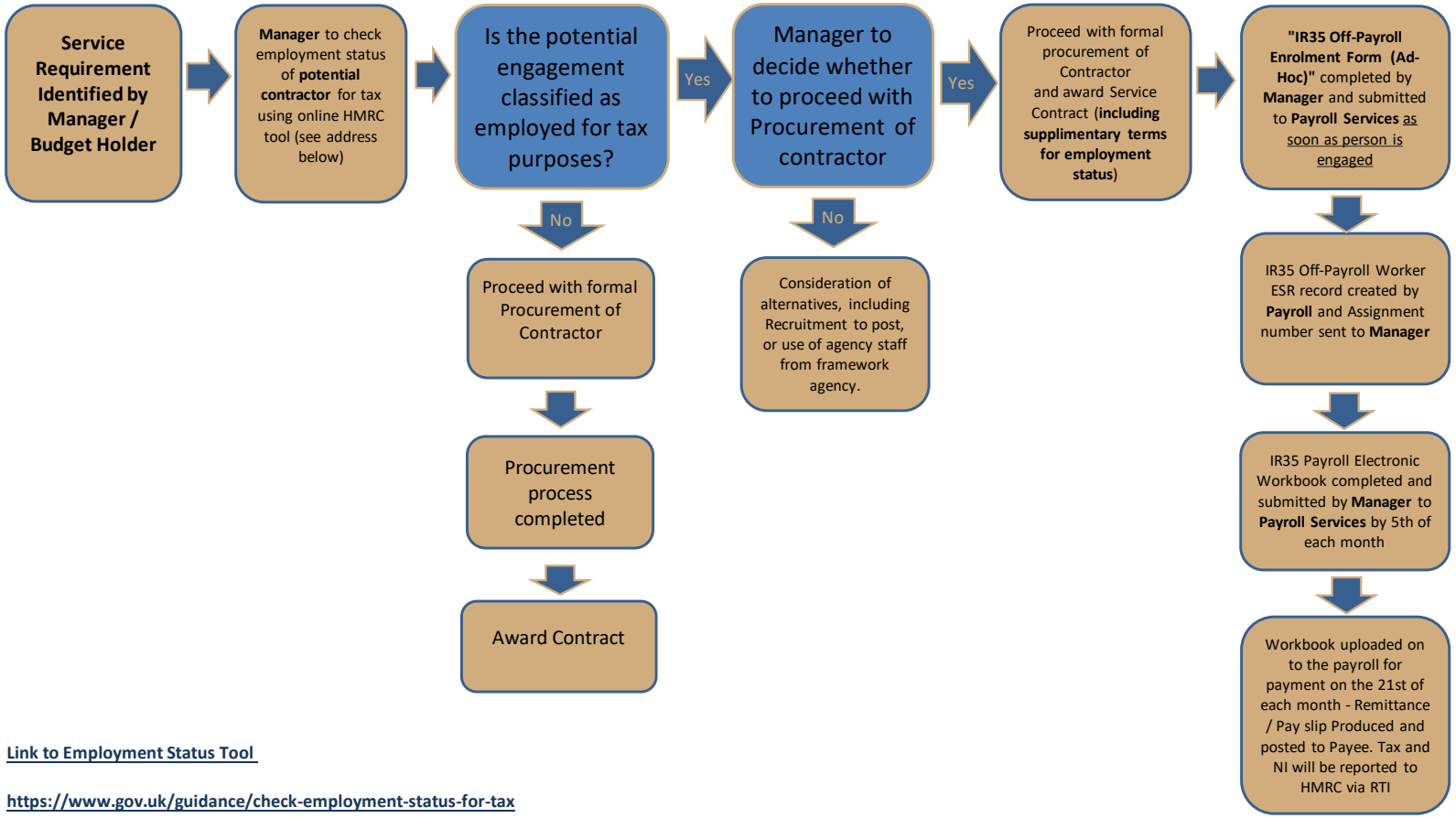
arrangements change, as increased levels of supervision, direction, or control may affect the IR35 determination.

Where an engagement's status changes from **outside IR35 (not employed for tax purposes)** to **inside IR35 (employed for tax purposes)**, this must be communicated to the contractor. In such cases, Public Health Wales will issue an updated Status Determination Statement (SDS), including the reasons for the decision.

If the contractor disagrees with the determination, they have the right to challenge it. Public Health Wales will consider any such challenge and review the original assessment, including the responses provided within the CEST tool, to ensure the determination is reasonable and accurate.

For all new engagements, the recruiting manager must use the HMRC CEST tool to determine the employment status of the engagement and, with reference to the associated guidance and process (including the flowchart), ensure that the contractor is engaged in the appropriate manner for tax purposes.

Appendix 1 – IR35 Process Flowchart



Link to Employment Status Tool

https://www.gov.uk/guidance/check-employment-status-for-tax