

Mark Brassington – Written evidence (OPR0005)

1/ Has the recent extension of the off-payroll working rules to the private sector made it more difficult for engagers to hire people with the right skills and expertise? To what extent has its introduction contributed to job vacancies?

Certainly within the UK, yes it has made it much harder to hire people, because it has introduced unnecessary fear, uncertainty and doubt (fud). Because the rules are not hard and fast, it has created this fud in the minds of potential clients. I am on both sides of the fence, and I currently have a number of offshore contractors who I hire offshore because the rules are much simpler. I'm not the only one.

2/ For those engagers (and their advisers) who use the CEST (Check Employment for Tax Status) tool to assess employment status, how effective do you consider it to be? Do you have confidence in its results? If not, what further improvements need to be made to it?

The CEST tool is no use at all, again because of ambiguities. Eg. "the right to reject a substitute" may be included in the contract, but HMRC may then take the company to court claiming that there was effectively no right to reject a substitute.

3/ What changes have engagers had to make to apply the off-payroll rules to contractors, in terms of systems, personnel and training? By reference to your own experience, to what extent (if any) do you consider that compliance costs have increased because of the changes?

One organisation simply stopped using contractors altogether. Others have simply moved all contractors into IR35, which meant the majority left. Businesses are risk averse, and they will simply go for a black/ white approach which appears to minimise the risk.

4/ How well has HMRC supported engagers, contractors, and their advisers with the implementation of the new rules and is any further or different type of assistance needed?

There has been zero support from HMRC. The fact that this question is even being asked is somewhat humorous. HMRC care nothing for those they tax, only for the targets they are set. I have contacts within HMRC, so this is not simply a bigoted point of view.

5/ To what extent has the introduction of the new rules generated disputes between engagers and contractors concerning the status of contractors vis à vis the rules and how successfully or otherwise have these been resolved?

There have been no disputes in my experience, the client sets the rules and they are not open for dispute. Take it or leave it. It has resulted in hirers losing a lot of contractors though impacting on the ability to get projects done on time. The UK is now losing out to foreign companies who don't have this problem.

6/ What behavioural effects have resulted from the introduction of the new rules in the private sector in terms of the arrangements adopted in hiring contractors?

Fear, uncertainty and doubt. It has proved a windfall for companies who manage risk, such as companies which offer insurance against IR35 investigation, which for me alone costs about £700 per year!

7/ The Government is proposing a new employment body with powers to enforce employment rights, including for those engaged by agencies and umbrella companies. How effective do you think such a body will be in ensuring workers, particularly the lower paid, are treated fairly?

ICO has a remit of looking after GDPR, and their enforcement is almost zero. The DfE and ESFA have a remit of looking after education issues, and likewise their enforcement is almost zero. Social Care has a remit of protecting and supporting children at risk, and their incompetence is widely known. If you would like evidence of any of these, please get in touch, I have first hand experience in every case. Based on my experience with other government bodies, I expect they too will be completely ineffective.

8/ How successful will the draft Finance Bill proposals for earlier publication of information about promoters and avoidance schemes be in protecting individuals from being drawn into such schemes?

I'm not sure what this involves so I cannot comment.

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