

Caval Ltd – Written evidence (OPR0034)

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?

1. Absolutely. Engineering in particular is an industry which relies upon a flexible, highly skilled workforce. Efforts have been made where possible to retain contractors engaged under previous working terms and conditions but broadly speaking most contractors have had to release senior staff.

The volume of these vacancies being created en masse has led to a vacuum of skills, as individual contractors seek favourable contract arrangements and end clients are unable to fill newly created permanent vacancies with people with the right level of skills.

Some employers have taken a zero tolerance approach and disengaged their entire contract workforce, further exacerbating the problem.

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?

2. As we are unable to rely upon the CEST tool and can only use it for guidance, it is broadly speaking not fit for purpose. As a business, we cannot make risk based commercial decisions based on that which is 'probably' correct. The tool feels like an effort to provide guidance but lacks the courage of its own convictions. Those who created it clearly do not feel that it can be legally relied upon. How therefore, are we to deduce that it can be trusted?

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?

3. Caval have always been committed to full compliance and are entirely commercially risk adverse.

Companywide training was rolled out from well ahead of the planned changes. We also engaged with our clients and contractors to advise them of forthcoming changes. This is an ongoing process with both staff and clients.

We were pleased to see that most employers were already on the same path but it was noticeable that some contractors and employers were not aware of these changes until we informed them.

All contractors, in partnership with their end clients, were audited and informed of their IR35 status.

This audit process now takes place with all new and ongoing contractors. This has both an administrative and financial cost.

It should be noted that as a business we have invested time into setting up for the IR35 changes twice, as we had to be completely ready for the roll out in 2020, up until the very last minute volte-face by the Chancellor.

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?

4. HMRC have made information available to us and to our contacts within the industry. With the ineffectiveness of the CEST tool, we have largely been left to draw our own conclusions and to fend for ourselves.

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?

5. We are not aware of any legal disputes that have arisen from the changes in legislation. However, the changes have been broadly contentious and have on multiple occasions resulted in the termination of contracts that up to that point had been stable, ongoing and beneficial to all parties.

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?

6. Clients have often attempted to adopt a 'permanent employment only' approach to recruitment, usually instigated from a senior place within a business and away from the day to day engineering needs of projects. This has led to a surplus of vacancies and project delays as roles remain unfilled that could previously have been filled at short notice by a flexible contractor workforce.

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?

7. It is difficult to answer this question without seeing the reach, scope and powers of said organisation. We would expect this body to work in partnership with unions and would of course offer our full cooperation to any such entity.

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?

8. Early notice of any changes is welcome. We also require certainty; last minute changes result in unnecessary costs and lost administrative time.

I have endeavoured to keep our responses concise, but I would be only too happy to expand upon any given point or points as you wish.

We would like to place on record that we hope this is the beginning of the rollback of these changes. It is our position that they have been harmful to the construction industry as a whole, damaging individuals, business and also the general public with cost overruns and damage to the public purse far

outweighing any recouped taxes from the minority who have both been within scope and remained in place.

15 November 2021