

IR35 CHECKLIST

Status Determination: Reasonable care

You are required to take reasonable care in carrying out status determinations. The following list shows behaviours that HMRC consider to be reasonable and unreasonable. It is not exhaustive, but as it is taken directly from their internal manuals it is a useful indicator of how they will approach any enquiries.



Examples of behaviours that would indicate that you have taken reasonable care include, but are not limited to:

- Accurately applying and keeping a record of the employment status principles.
www.gov.uk/hmrc-internal-manuals/employment-status-manual/esmo500
- Accurately completing HMRC's Check Employment Status for Tax (CEST) tool.
www.gov.uk/guidance/check-employment-status-for-tax
- Applying HMRC guidance on determining status.
- Seeking the advice of a qualified, professional advisor.
- Having someone with a good understanding of the work to be undertaken involved in the determination process.
- Checking existing individual determinations to ensure they remain valid / accurate.
- Reviewing the processes being applied and amending for future determinations where necessary.
- If there are any material changes to a worker's terms and conditions, or working practices, making a new status determination.
- Ensuring they check and review processes of other parties where they subcontract the determination process to another party. The client remains responsible for the accuracy of the SDS even if it subcontracts that responsibility to another party.



Examples of behaviours which do not constitute reasonable care include, but are not limited to:

- Determining that every worker who provides their services through an intermediary is caught by the off-payroll working rules without giving any consideration to the specific facts of each individual case.
- Determining that the off-payroll working rules apply to a large group of workers who have some variations between the work that is being carried out, without giving proper consideration to the different working arrangements for each worker.
- Failing to reconsider determinations where there has been a material change in circumstances.
- An absence of any proper support or training within the organisation to enable those individuals responsible for making determinations to properly consider the off-payroll working rules.
- Inputting inaccurate information into CEST.
- Failing to take into account all relevant evidence.
- The person tasked with completing the SDS does not possess the knowledge required to complete it and is not provided with the required level of support.
- The client subcontracts the SDS process to another party and does not confirm the accuracy of that conclusion and the reasons for it.

Still unsure?

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to discuss IR35 impacts further

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CHARTERED ACCOUNTANTS