

**Off-payroll working rules from 6th April 2021**

**Frequently Asked Questions**

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| **Question** | **Answer** | **Example** |
| 1. **Why do I need to consider this policy when I engage off payroll workers?** | **Aberystwyth University is legally required to apply the correct tax and NIC treatment when engaging off-payroll workers. Different tax treatments are applied to different types of engagements** |  |
| 1. **What type of off-payroll engagements do I need to consider?** | **There are three main types of off-payroll engagements which Aberystwyth University needs to consider for tax purposes. Aberystwyth University engages with:**  **1) A worker direct (as an**  **individual) on a self-employed**  **basis.**  **2) A Personal Service Company of the worker.**  **3) An agency (but the worker uses their own Personal Service Company when contracting with an agency in the supply chain).** | **1) Aberystwyth University engages with John Edwards.**  **2) Aberystwyth University engages with John Edwards Limited.**  **3) Aberystwyth University engages with an agency to provide John Edwards Limited.** |
| **3) Do I need to understand the full supply chain?** | **Yes. You need to understand how Aberystwyth University are sourcing those workers.** |  |
| **4) What are off-payroll workers?** | **These are workers who are not directly employed by Aberystwyth University, and contracted to provide their service in alternative ways.** | **See above.** |

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| **5) Can I engage a worker direct as a self-employed individual?** | **Yes. You should carry out an employment status check for the off-payroll worker before the contract commences. You should complete the HMRC electronic “Check Employment Status for Tax” tool (CEST)** [**link**](https://www.gov.uk/guidance/check-employment-status-for-tax) **attached.** | **Aberystwyth University engages with John Edwards once the CEST tool confirms it is a self-employed engagement.** |
| **6) What are the possible results from the CEST tool?** | **There are three outcomes from the CEST tool:**   * **Employed** * **Self-employed** * **Unable to determine.** |  |
| **7) What do I do if I get an**  **Employed result?** | **Aberystwyth University will be required to process payments to the worker via Aberystwyth University’s payroll and subject them to PAYE/NIC in the same way as any other Aberystwyth University employee.** | **An example of an employed**  **result would be someone who**  **completes the same role as**  **an employee of Aberystwyth University or a worker who is only providing labour on an**  **Aberystwyth University contract.** |
| **8) What do I do if I get a Self-employed result?** | **The worker can be paid without the deduction of PAYE/NIC.** | **An example of a self-employed individual is a specialist who is engaged for a specific project. The specialist is under no obligation to accept work, provides their own equipment, bears financial risk and can send a substitute if they are unable**  **to perform the work.** |
| **9) What do I do if I get a no clear Status result?** | **For complex cases the CEST tool may not be able to reach a determination. In such cases, please contact the Procurement Dept for more advice.** |  |
| **10) What do I do with the CEST results?** | **You should print and scan a copy of the CEST results and send it to the ABW supplier record** |  |
| **11) Do I have to use the CEST**  **tool for every off-payroll worker?** | **Yes** |  |
| **12) Do I have to reassess the**  **off-payroll worker using the CEST tool?** | **Yes. You should undertake a CEST review every 12 months after the contract commences or if a new project commences.** | **John Edwards starts on 1**  **June 2021. He is still working on the project on 1 January 2022. You should re-run the CEST tool.**  **John Edwards starts on 1 June 2021 working on project A. John Edwards starts working on project B on 1 November 2021. You should re-run the CEST tool.** |

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| **13) When do the IR35 rules apply?** | **IR35 rules apply where a worker is engaged via a PSC somewhere in the chain and the worker would be treated as an employee of the end client if the PSC was ignored.** |  |
| **14) Who determines whether the**  **IR35 rules apply?** | **Aberystwyth University** |  |
| **15) What does Aberystwyth**  **University need to do if the IR35 rules apply?** | **Aberystwyth University is required to provide a copy of the Status Determination Statement (SDS) to the worker and the next agency in the chain, if the PSC is engaged via an agency.** |  |
| **16) Who is responsible for operating PAYE/NIC if the**  **IR35 rules apply?** | **The “fee payer” is required to operate PAYE/NIC on the payment to the PSC.** |  |
| **17) Will Aberystwyth**  **University ever be the “fee payer”?** | **Yes. Where Aberystwyth University engages directly with the PSC.** |  |
| **18) Are there any circumstances where Aberystwyth University will not be the fee payer?** | **Yes. Where Aberystwyth University engages with a separate agency (to procure the services of the worker) and that agency contracts direct with the PSC.** | **Aberystwyth University engages with an agency to provide John Edwards via John Edwards Limited.** |
| **19) Are there any other reporting requirements if Aberystwyth University is not the end user and not the “fee payer”?** | **Yes, if there is another agency down the chain which Aberystwyth University contracts with Aberystwyth University is legally required to pass on the findings of the SDS to the other agency.** |  |
| **20) What do I do if the worker disagrees with the status determination?** | **Aberystwyth University has 45 days to review and respond to any disagreement lodged by an off-payroll worker.** |  |
| **21) What amount should Aberystwyth University operate PAYE/NIC on if it is due?** | **The VAT exclusive amount paid to the PSC.** | **John’s PSC (which contracts**  **with Aberystwyth University) is caught by the IR35 rules. The PSC invoices £1,000 plus VAT of £200. Aberystwyth University should operate PAYE/NIC on £1,000.** |
| **22) Who do I contact at**  **Aberystwyth University if I have any further questions?** | **Please contact Mathew Clarke in the Finance Department.** |  |