

OFFPAYROLL WORKING POLICY

1. OVERVIEW AND PURPOSE

- 1.1 The OffPayroll Working Policy (the policy) sets out the rules and procedures to ensure that an individual providing services to the University, who works like an employee, is identified as a worker of the University (if a temporary worker).
- 1.2 The University engages individuals from time to time to deliver services which meet the needs of the Institution. The policy sets out rules to establish when an individual must be engaged as a worker on the University's behalf (as opposed to being engaged as a supplier under a service contract).
- 1.3 The policy sets out the specific responsibilities to Heads of School and Directors of Professional Services (Budget Holders), Engaging Managers, the Director of Finance and the IR35 team.
- 1.4 The policy must be followed to ensure the University meets its tax and legal obligations when engaging workers.
- 1.5 In addition to this policy document, the University has issued a process document and a process map which clearly sets out the steps that must be followed and specific roles and responsibilities for all individuals involved in the process of engaging workers and contractors as well as Budget Holders.

2. SCOPE

applies to the subsidiary undertaking.

- 2.3 The policy applies to all individuals providing services or being considered as a provider of services to the University. The IR35 assessment and rules apply when the worker provides services to the University either directly as a worker or through an intermediary, which could be a limited company arrangement or a partnership. The policy will be applied by the agency on the payment to the worker.
- 2.4 Current employees or employees who have recently ceased employment with the University who undertake work for the University outside their normal role will not normally be covered by this Policy as all earnings will be considered part of their University employment, and will be subject to PAYE and NICs withholding through the payroll. In cases where the work in question is significantly different to the work of employment the employment status will be considered taking into account all the facts and circumstances.

3. RESPONSIBILITIES

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3.1 Head of

3.1.1 HOS and DOPS as Budget holders under the Financial Regulations are responsible for ensuring that the off-payroll working policy and process is being adhered to within Schools and Professional Services Divisions.

3.1.2 Budget Holders are responsible for ensuring that Engaging Managers and any other members of staff

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NICs. The above rules will not apply to workers provided through an agency where the workers are

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to its clients. This intellectual capital allows the consultancy business to exercise management control and human resourcing businesses, do not have this intellectual capital and therefore are not providing business services to the University, but simply introducing skilled consultants in return for a fee, similar to an agency arrangement. In such cases, the consultants deployed would be the principal suppliers of the service to the University and as such subject to an IR35 CEST (Check Employment Status for Tax) determination.

7.3 The substance and practical arrangements in place for delivery of services must include the following in order for a business to be considered the principal supplier of consultancy services and the contract outside the scope of IR35. If any of the following conditions are not in place the consultant must be referred to the HR IR35 team for check employment status for tax (CEST) IR35 determination.

- x There must be a contract for the delivery of services to the University.
- x The contract must be between the principal service provider and the University.
- x The principal service provider must not be a personal service company.
- x The principal service provider must exercise management control over the individuals deployed to deliver the services. This must be evidenced in practice and not be only contractual.
- x The principal service provider must perform quality control over the work performed by the individuals deployed to deliver the services. This must be evidenced in practice and required in contract.
- x The principal service provider is responsible for the delivery of services set out in the statement of work or other schedule of services under the contract and must be actively engaged in monitoring the delivery of the specified services. Active engagement should be evidenced.
- x The principal service provider must identify a person or persons to be responsible for the contract and the delivery of services, the quality control and management of the deployed individual(s).
- x The principal service provider must be responsible for identifying and deploying individual(s) to deliver the services on behalf of the service provider under the contract. The University will be interested in assessing the competence, skills, experience and strength in depth of the delivery team and this should be a core part of the tendering process and evaluated for each competing bid.
- x The individuals deployed to deliver the services must be in receipt of some admin, IT and other forms of support from the principal service provider. Ergo Business and admin services, systems, software and/or equipment provided by the service provider.
- x The individuals deployed must not use University business and admin systems, services, software and equipment. It is acceptable to make hot desk facilities available for attendance on University business premises.
- x The individuals deployed must not be under the management and supervision of the University. Neither should quality control primarily be in the hands of the University.
- x There should be a clear escalation mechanism should delivery of services be unsatisfactory, substandard, untimely, of poor quality or behaviour and conduct of deployed individuals be unacceptable. While this might in the first instance be with the individual deployed to deliver the work it must provide for escalation to the responsible person identified under bullet six above as responsible for the management of deployed individuals.
- x The service provider must be required to substitute any individual deployed to deliver the services and be capable of doing so (assurance that substitution is a reasonable expectation must be received and evidence based before entering into a contract).
- x While the University should retain a right to

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10.2 Social Security Contributions (Intermediaries) Regulations 2009 Statutory Instrument 2000 No 727

POLICY DETAILS

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