



## Employment status frequently asked questions

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### 1. What if the individual tells us they are registered as self-employed?

The employment status relates to the work being completed and not the person completing it. Therefore each engagement must be assessed in its own right according to the reality of the working arrangement.

### 2. What if the individual refuses to complete the work unless they are paid as self employed with no deduction of tax and national insurance?

The University is legally obligated to deduct tax & national insurance (NI) in line with policies set by HMRC. The individual has the right to accept or decline the offer of work under the terms specified by The University of Leeds.

### 3. What is the process if the individual engaged is already an employee?

If there is a genuine reason to pay the employee additional funds for services provided then this will be paid along with their salary and tax and NI will be deducted via Payroll. The Faculty/Service will need to contact HR with the details of the additional payment to facilitate payment.

### 4. Where do I write the GL code on IR35 and overseas payment form?

The GL code is automatically determined from the type of work specified on the relevant form. If the form has been completed for examining, the GL code for examining (51310) will be used.

## **5. What paperwork do we need to keep in department?**

In the event of an HMRC audit on individuals engaged on a self employed basis you will need to provide:

- ESS printout (ESS enquiry details and any relevant correspondence)
- IR35 Payment form
- Any correspondence relating to the engagement e.g. emails, IR35 checklists
- Invoice

This information will need to be retained for four tax years plus current year.

## **6. What if we find out about the engagement after the work has been completed?**

The standard process should be completed retrospectively and the treatment of the payment will reflect the status of the work being completed i.e. employed or self employed. In order to meet the required payment terms for vendors, engagement arrangements must be made in advance of work being undertaken or agreed.

## **7. If an individual is assessed as being self employed but they want us to deduct tax and NI, can we do this?**

When employee's national insurance is deducted at source then we are automatically obliged to pay employers national insurance, which results in an additional cost to the University.

If Intermediaries legislation (IR35) applies the University (or relevant 3rd party agency) is responsible for ensuring appropriate deductions are made on payments to individuals. Where intermediaries legislation does not apply, any individual engaged on a self employed basis is responsible for declaring their earnings to the HMRC via self-assessment.

## **8. Who do we contact if we have queries/unusual cases?**

Engagers contact their local Finance, HR or Procurement department with all engagement queries.

Faculty/Service HR and Procurement to contact Payroll for tax and NI queries.

HR/Procurement to contact HRMC IR35 helpline in cases where the ESS tool provides an undetermined response.

## **9. What are the consequences of getting this wrong?**

Individuals are incorrectly informed of the terms of payment for the services they have provided and could subsequently receive less than they are expecting.

Making retrospective corrections to payments causes additional work for Faculties/Services, Procurement & Payroll. Late payment may incur interest charges and result in reputational damage.

HMRC will impose penalties and fines where correct procedure has not been followed and due care and consideration has not been followed. All costs relating to penalties and fines will be directly charged to the department responsible for the engagement.