



# Self Employed Policy (IR35)

2018  
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Agreed by the Resources Committee on 28<sup>th</sup> June 2018.

Signed:..... Chair of Governors

Signed:..... Executive Head

## **Off-payroll working –public sector responsibilities**

From 6 April 2017 public sector organisations, including schools, need to assess the status of anyone working for them who operates on a self-employed basis or through their own company, known as ‘an intermediary’. This includes self-employed individuals supplied through a third party agency.

Specialist advisers, consultants or supply teachers may fall in to this category if they normally submit invoices for payment or are hired by the school through an agency. This won’t apply to workers directly employed by an agency where it operates PAYE and NICs on the earnings it pays to the worker.

The intermediaries’ legislation, often referred to as IR35 already exists to ensure that individuals who work through their own company pay employment taxes in a similar way to employees.

The new law means schools will be responsible for assessing the status of these individuals to decide if tax and national insurance is payable under the IR35 rules. Previously the individual and their company was responsible for making this decision. Where the school decides that the IR35 rule applies the school, or the agency/third party paying the individual, will be responsible for deducting and paying the tax and National Insurance Contributions (NICs) and for paying the employer NICS of 13.8%. The simplest way to do this is through our current payroll provider. Anyone taken on to payroll in this way will not become contracted employees and will not be entitled to occupational pensions or statutory payments. Certain other employment rights will not apply.

An Employment Status online tool has been provided by HMRC to help people decide whether the rules apply. This can be found here:

<https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>

## **Procedures to follow**

Before any contract is entered into with a contractor it is essential that the following steps are undertaken:

1. Contact the Finance team to let them know that you wish to engage the services of a new contractor. Provide them with the following information:

- a. name of person / organisation you wish to contract
- b. contact details
- c. outline of the work to be undertaken > this should include the type of work, when & where it will be carried out, how long it is expected to last, what fee structure has been agreed
- d. any contracts that the contractor has sent relating to the work

It may be necessary to contact the contractor if any part of the work needs clarifying.

2. The Finance Team must complete the on-line IR35 assessment to ascertain whether the contractor can be self-employed or has to be taken onto payroll. The completed list should be saved for future reference
3. Contact the member of staff with the decision. If the contractor can be self-employed the contract can be signed and the work commence
4. If the contractor cannot be self-employed relate this to the member of staff and see if they wish to proceed. If they do contact the contractor to see if they wish to take on the work on the understanding that they will be paid through our payroll provider, with tax & NIC deducted at source.
5. All documentation must be kept should HMRC or an auditor wish to view it

### **Sample documents**

Attached as appendices to this document are the following:

1. Sample contract for a self-employed contractor
2. Letter to a contractor regarding being paid through our payroll system
3. Letter confirming the outcome of the IR35 check

<b><i>Policy reviewed</i></b>	<b><i>June 2018</i></b>
<b><i>Adopted by New Wave Federation Governing Body</i></b>	<b><i>28<sup>th</sup> June 2018</i></b>
<b><i>Review date</i></b>	<b><i>June 2019</i></b>

## CONTRACT

**THIS AGREEMENT** is dated the xx of Xxx 2018

Between:

### **PARTIES**

1. **The New Wave Federation** (referred to as The Federation) and
2. [Insert Name] (referred to as The Consultant), [Insert Address]

### **RECITALS**

- A. The Federation has agreed for the purposes of this Agreement to engage the above named person for the Services as set out below.

### **OPERATIVE PROVISIONS**

#### **1. Consultancy Services**

The Consultant will provide the Services as detailed in appendix A  
The Services will be carried out mainly as detailed in appendix A  
The Services will normally be on the days as detailed in appendix A

#### **2. Duration**

This Agreement shall commence with effect from the xx of Xxx 2018 and shall be valid as agreed between the parties. This may be on a termly, annual or ad-hoc basis.

#### **3. Consultant's Obligations**

3.1 The Consultant agrees to perform the Services as detailed in appendix A for the benefit of the Federation.

3.2 The Consultant has the right to send a substitute if they are unable to carry out the work. This must be agreed with The Federation in advance.

3.3 The Consultant can bring someone to assist them in carrying out the Services but must remunerate them from the agreed rate.

3.2 The Consultant will be skilled in their field and will use all reasonable endeavours to perform the Services with reasonable care and skill.

3.3 The Consultant will be responsible for the production of a valid DBS check and, where agreed, Public Liability Insurance.

3.4 The Consultant will at all times adhere to the procedures as outlined in the Federation's safeguarding policy.

#### **4. Federation Obligations**

4.1 The Federation will endeavour to avoid cancellations of days wherever possible. In unavoidable cases of cancellation, the school will attempt to re-schedule another day on the same week to deliver the session.

#### **5. Fees**

5.1 In consideration of the performance of the Services the school agrees to pay to The Consultant the rate as specified in appendix A exclusive of VAT.

5.2 The Consultant will invoice on a monthly basis and will receive payment within 30 days of receipt of an invoice.

#### **6. Taxation**

6.1 The Consultant shall be responsible for their own tax and National Insurance in respect of the fees paid under this agreement.

#### **7. Termination**

7.1 Either party shall be entitled to terminate this Agreement forthwith by notice in writing to the other if the other commits an irremediable breach of this Agreement, persistently repeats a remediable breach or commits any remediable breach and fails to remedy it within 30 days of receipt of notice of the breach requiring remedy of the same.

**8. Monitoring & Documentation**

8.1 The Federation reserves the right to photograph and/or video any activity for educational, archive and promotional purposes. The Federation's consent must be sought in advance where any still or moving images are to be used for the Contractor's promotional activity but such consent will not be unreasonably refused.

**Signed by the Contractor**

SIGNATURE.....

NAME.....DATE.....

**Signed on behalf of the Federation**

SIGNATURE.....

NAME.....DATE.....

ROLE:

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**APPENDIX A**

<u>Service</u>	<u>Day</u>	<u>Venue</u>	<u>Rate</u>
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xx 2018

**Private and Confidential**

Dear,

**Public Sector IR35 changes – April 2017**

From April 2017, new HMRC rules have been put in place for consultants working in the public sector where they are paid via a business or are self-employed. It is now the schools responsibility to determine the IR35 status of contractors, and for deducting any tax and NICs deemed to be owed at source. This will be achieved by making all payments through our payroll provider on a monthly basis.

As you fall into this category we need to determine whether you feel that you would like to continue working for the New Wave Federation as \_\_\_\_\_ from xx 2018 should an opportunity be available.

Please can you complete the form below and return it to The Finance Manager c/o Grazebrook School as soon as you are able to.

If you have any queries please feel free to leave a message via Grazebrook School on 020 8802 4051 or e-mail on [accounts@newwavefederation.co.uk](mailto:accounts@newwavefederation.co.uk)

Yours sincerely,

Finance Manager



xx 2018

**Private and Confidential**

Dear \_\_\_\_\_,

**Public Sector IR35 changes – April 2017 – Undertaking**

Thank you for returning your IR35 determination form stating that you would like to continue to work at \_\_\_\_\_ Shacklewell/Grazebrook/Woodberry Down\* School as a \_\_\_\_\_ delivering \_\_\_\_\_ on \_\_\_\_\_.

The HMRC toolkit confirms that you fall under the category below:

Self-employed

Please confirm that all your self-assessments/Tax and NIC's have filed/paid in the past and will continue to be paid and filed.

Not able to be self-employed consultant. You need to go onto our payroll. We are responsible for paying your Tax and NIC's on your behalf.

Please do contact me if you need to discuss this further.

Yours sincerely,

Finance Manager

\* delete as necessary