

# IR35 Guidance for Schools

## Introduction

All Schools, Councils and public sector employers must ensure that, under HMRC regulations, they engage Suppliers/Workers or Intermediaries through an appropriate contract.

The School must decide who will be the **‘Engaging Manager’ for the purpose of this guidance**. The Engaging Manager has responsibility to assess the relationship between the School and the Supplier/Worker or Intermediary to determine the employment status they are engaged under to provide services to the School. This assessment will determine whether the School must deduct tax and national insurance contributions from any payment made to the Supplier/Worker or Intermediary.

It is expected that the Engaging Manager in Schools will be either the Headteacher, Business Manager or other leadership role.

### 1. Aims of Guidance

To ensure that all Schools understand their responsibilities in engaging workers, service providers and individuals and that each School complies with HMRC regulations.

### 2. Scope

This guidance relates to all schools who engage Suppliers/Workers or Intermediaries to provide services to the School.

### 3. Principles

Most people who work in a School will do so as an ‘employee’; they will have a contract of employment and will be paid through payroll. School employees will have statutory entitlements such as annual leave, sick pay and access to a pension scheme. The Schools payroll provider is responsible for deducting an employee’s tax and national insurance contributions and paying it over to HMRC.

Sometimes the School will not have the resource, skills or expertise to undertake certain work. On occasions, it might be necessary for the School to engage external Suppliers/ Workers or Intermediaries to complete this type of work.

It is important that Suppliers/Workers or Intermediaries are properly engaged through a contract or agreement to provide services to the School (contract of engagement), and that any subsequent payment for those services is treated correctly for taxation under HMRC legislation.

The key part in treating those payments correctly for taxation is to assess the 'relationship' between the School and the Suppliers/Workers or Intermediaries. It is the Schools responsibility to determine that relationship and to decide the employment status in accordance with HMRC regulations for each contract of engagement provided by:

- **self-employed individuals**
- **limited companies**
- **personal service companies (PSC)**
- **intermediaries**

The School must, under HMRC regulations known as 'intermediaries' legislation' (more commonly known as IR35), determine the relationship between the worker supplied by a Supplier/Workers or Intermediary to decide on employment status.

These rules do not apply to the genuinely self-employed (for example they operate their own business structure and do not work in the same way as an employee, have their own business premises, employ other workers or work for a wide range of clients), workers employed by medium/large companies (e.g. the BT engineer who installs telephone lines) or where that company controls the work of the worker and so the service is provided on a 'business to business' basis.

They will apply to the Supplier/worker or Intermediary where, for example, there is usually only one worker (and commonly the owner or major stakeholder of that company or PSC).

#### **4. Why is employment status so important?**

Employment status is important as it determines whether there is a liability for tax and national insurance contributions and whether these should be deducted at source. There can be significant consequences, including financial penalties, if the School does not apply the correct rules or ignore IR35 legislation and HMRC regulations. Any financial penalties incurred as a result of a School not following this guidance will be charged to that Schools budget.

The School must, when engaging any Supplier/Worker or Intermediary, decide on the employment status to ensure that appropriate tax and national insurance is paid and specifically, should they be deducted, at source, and paid over to HMRC. These payments will form part of the Suppliers/Workers or Intermediaries tax record and contribute to their state benefit entitlement.

The School must use all the facts of each contract of engagement and information available about the Supplier/Worker or Intermediary to decide the employment status or, if the work is provided by an agency or company, whether IR35 applies. It is not enough to consider a label, description or job title i.e. 'consultant' to confirm there is no obligation to pay tax or national insurance.

There are various employment types (other than own employees) who may need to pay tax and national insurance, at source, deducted by the School for the work they complete for the School for example:

#### **5. 'Self-Employed' Workers**

A person is self-employed if they run their business for themselves and take responsibility for its success or failure. It is the Schools responsibility to decide whether

a person is self-employed, irrespective of what the person may say. Someone is more likely than not to be self-employed if most of the following apply:

- They're in business for themselves, are responsible for the success or failure of their business and can make a loss or a profit.
- They can decide what work they do and when, where or how to do it.
- They can hire someone else to do the work.
- They're responsible for fixing any unsatisfactory work in their own time.
- They receive a fixed price for their work – it doesn't depend on how long the job takes to finish.
- They use their own money to buy business assets, covering running costs, and provide tools and equipment for their work.
- They can work for more than one client at any one time.
- They're not under direct supervision when working.
- They're responsible for paying their own National Insurance and tax.

Someone is not necessarily self-employed if:

- They bid or give quotes to get work.
- They submit invoices for the work they've done.
- Operate under a contract or agreement that uses terms like 'self-employed', 'consultant' or an 'independent contractor'.

A self-employed person is not paid through PAYE (i.e. through payroll), so doesn't pay tax and national insurance contributions like an employee. They will make their contributions through their HMRC annual self-assessment.

## **6. 'Partnership'**

This is a business model used to describe a relationship which exists between two or more people who personally share responsibility for the business, including any losses made. Partners share the business's profits, and each partner pays tax on their share.

## **7. 'An Individual Working for an Agency'**

Schools may engage workers using recruitment/employment or other agencies. In most cases, the worker will be an employee of the agency and the agency will be responsible for paying the worker through their PAYE (deducting tax and national insurance contributions at source). The School will 'reimburse' the agency for the workers costs through an invoice submitted by the agency.

However, some workers may work for an agency through their 'own company'. For example, the School may engage a 'consultant' via an agency, but the consultant invoices the agency rather than being paid through their payroll, so avoiding tax and national insurance liability.

The agency recharges the School the cost of the invoice (plus fees). Under the HMRC IR35 rules, this is not compliant with HMRC regulations. The agency must notify the School that the worker is not their employee and will be paid through the worker's own company. The School will, in these cases, be required to determine the employment status of the worker and whether IR35 rules apply via completion of the process set out below. If they do, then the agency must deduct tax and national insurance.

## **8. 'An Individual Working through an Intermediary'**

Often the School engages workers through an intermediary i.e. through a **limited company** or **personal service company (PSC)** (a company where there is a sole

director who owns most or all the shares). In other words, these are individuals who operate under the guise of a company as a way of limiting their liability for tax and national insurance, often referred to as a “one man band”.

HMRC IR35 regulations were introduced to close the loophole that prevented these individuals from avoiding tax and national insurance. IR35 regulations also include a specific requirement for public sector employers known as “off-payroll working within the public sector”. This puts all the responsibility on the School to determine if an individual is working through an intermediary, whether IR35 applies and then deduct tax and national insurance from any payment to the individual. Although these individuals will submit an invoice, they would be paid through payroll and be subject to tax and national insurance.

Individuals working through an intermediary may be working in a contractual chain i.e. the individual may be working through their limited or personal service company for an employment agency who, in turn, sends the worker to the School for work. It is always the end client (the School) that has the responsibility for determining liability for tax.

### **9. Responsibilities of the Engaging Manager**

Before any work commences the Engaging Manager must establish whether IR35 legislation applies to the Supplier/Worker/Intermediary they are planning to engage i.e., are they a personal services company, partnership, sole trader etc. To do this the Engaging Manager must complete an [HMRC Check Employment Status for Tax \(CEST\)](#).

The Engaging Manager is responsible for:

- Ensuring that IR35 regulations are applied prior to the contract.
- Completing the CEST on a contract-by-contract basis, not just as a one-off exercise.
- Retaining all documents relating to the CEST, these are legally binding documents and may be required in the future for audit purposes.

### **10. When should an Engaging Manager check employment status?**

It is important to do this **before** the Supplier/Worker or Intermediary is engaged. They need to understand and agree the contractual relationship, conditions of engagement and how the School intends to pay them.

### **11. Are current Suppliers/Workers or Intermediaries already being paid covered?**

Any Supplier/Worker or Intermediary, even if they’ve been paid through accounts payable in the past, will need to be **re-assessed** under HMRC regulations with a check of their employment status using the HMRC CEST online assessment.

### **12. How does an Engaging Manger check employment status?**

Employment status must be checked by using the [Check Employment Status for Tax](#) online HMRC tool (CEST). This tool must be completed by the Engaging Manager, NOT the supplier themselves.

Engaging Managers will be required to answer a series of questions around the relationship between the Supplier/Worker or Intermediary and the School. These questions must be answered carefully and correctly. The tool will confirm whether an individual is an employee, self-employed or in scope for IR35 for tax purposes.

The CEST is anonymous and won't store any information you enter, or the result given. The result must be retained as a record. An Engaging Manager needs the following information to complete the CEST:

- details of the contract including actual working practices.
- the Supplier/Worker or Intermediary responsibilities.
- who decides what work needs doing.
- who decides when, where and how the work's done.
- how the worker will be paid i.e. fixed amount or hourly rate.
- if the engagement includes any corporate benefits or reimbursement for expenses.

Engaging Managers must choose answers that best match the usual working practices of the engagement. A Supplier/Worker or Intermediary, whether claiming self-employment or working through an intermediary such as a limited company or PSC is responsible for providing the information needed to help determine whether employment status or off payroll working rules should apply. **It is the Engaging Managers responsibility to complete, record and retain the CEST.**

Please see appendix A for more information of the key HMRC terms Engaging Manager need to be aware of when completing the CEST.

The CEST will confirm once complete one of the following;

1. This engagement should be classed as **employed for tax purposes** – this means the School will need to **deduct tax and national insurance from the payment**. The individual will need to be set up on payroll. It may be necessary to consider whether the individual should be given a contract of employment.
2. This engagement should be classed as **self-employed for tax purposes** - this means the School will **pay the worker the gross amount**, through accounts payable, **without deducting tax or national insurance**.
3. The **intermediaries' legislation applies** to this engagement – this means the School will need to **deduct tax and national insurance from the payment**. The individual will need to be set up on payroll.
4. The **intermediaries legislation does not apply to this engagement** – this means the School will **pay the worker the gross amount**, through accounts payable, **without deducting tax or national insurance**.

If a 'unable to determine' result is confirmed, please contact [paul.jones@shropshire.gov.uk](mailto:paul.jones@shropshire.gov.uk)

All Suppliers/Workers or Intermediaries must be provided with a copy of the outcome of the CEST assessment along with a Status Determination Statement (SDS) which confirms reasons for the determination.

When submitting the required information by the Council via ERP, only the first determination submitted by an Engaging Manager will be accepted, it cannot be completed again purely to secure a different determination.

#### **14. What does each outcome mean?**

##### **Outcome 2 or 4 – IR35 rules do not apply, so Outside IR35**

If either outcome **2 or 4** from the above apply this means IR35 rules **do not apply**. If the School determines a Worker/Supplier or Intermediary to be '**Outside IR35**' this means they meet HMRC's definition of self-employed. They are considered a genuine 'business' and can operate and be engaged with as an independent Worker/Supplier

or Intermediary for the duration of the contract. The School would pay appropriate invoices submitted without any statutory deductions.

The following documents should be sent to the Supplier/Worker or Intermediary:

- Status Determination Statement (IR35 rules DO NOT apply) (appendix C).
- {Insert School Name} Status Disagreement Process (Appendix E).
- New Supplier Creation Form (available from Finance Transaction Team).

The Engaging Manager must retain a copy of the CEST and corresponding Status Determination Statement for Audit purposes.

A new supplier creation form must then be completed by supplier and/or the Engaging Manager but must be signed by the Engaging Manager. The HMRC CEST assessment and invoice must be included when submitting this form via Unit 4 ERP. This will allow the Council payments team to check and complete the supplier set up to make it active.

Once the supplier is active then a requisition can be raised, to then generate a Purchase Order. If the supplier is already set up on Unit 4 ERP then the HMRC CEST assessment must be attached to the generated PO to then allow the invoice to be processed for payment.

If there is no liability for tax and national insurance, the Supplier/Worker or Intermediary can be paid through the Councils Payments Team and will need to complete a 'new supplier' form.

### **Outcomes 1 or 2 – IR35 rules do apply, so Inside IR35.**

If either **1 or 3** from the above apply this means IR35 rules **do apply**. If the School determines a Worker/Supplier or Intermediary to be '**Inside IR35**' this means they do not meet HMRC's definition of self-employed. The Supplier/Worker or Intermediary **is** deemed an employee of the School for tax purposes for the duration of the contract.

The manager must issue the following documents to the Supplier/Worker or Intermediary:

- Status Determination Statement (IR35 rules apply) (appendix D).
- IR35 New Supplier/Worker/Intermediary Starter form (appendix B) - complete 'you and your organisation details'. The Supplier/ Worker or Intermediary should complete the remainder of this form and return to Engaging Manager. This information will provide the Engaging Manager with the information required to set them up on the Council payroll system to allow the necessary deductions for tax and national insurance to be paid to HMRC.

- {Insert School Name} Status Disagreement Process

Upon return of the completed IR35 New Worker Starter form from the Supplier/Worker/Intermediary, the Engaging Manager must:

- Check the details match the contract.
- Complete the IR35 New Supplier/Worker/Intermediary Starter Form.
- Send the IR35 New Supplier/Worker/Intermediary Starter Form, the CEST and the Status Determination Statement to [payroll.notifications@shropshire.go.uk](mailto:payroll.notifications@shropshire.go.uk)
- Retain a copy of the CEST and corresponding Status Determination Statement for Audit purposes.

Employment Services Payroll will set up the Worker/Supplier/Intermediary on Unit4 ERP. When the Supplier/Worker/Intermediary has been set up on the Unit4 ERP, the Engaging Manager will receive an email from payroll with the Supplier/Worker/Intermediary payroll reference number.

Once received, the Engaging Manager should record the payroll number on the invoice to be paid, together with the bank details of the Worker/Supplier/Intermediary.

The invoice should then be emailed to [payroll.notifications@shropshire.gov.uk](mailto:payroll.notifications@shropshire.gov.uk) who will process the payment with tax and national insurance deducted. Engaging Manager should note relevant payroll deadline date each month to ensure payment is made in the next payroll run.

Payroll will check the mailbox on a regular basis and assess the invoice for VAT and amount of pay relating to the work carried out. If there is VAT on the invoice, then the invoice will have to be coded up by the Engaging Manager and forwarded on to [shropshirecouncil.invoices@proactiscapture.com](mailto:shropshirecouncil.invoices@proactiscapture.com) to process with the remaining net and VAT for payment.

No payment can be made to the Supplier/Worker or Intermediary until the actions above have been completed.

An example of how an invoice processed via payroll will be paid is:

- Invoices received for £7,200 for services provided (£6,000 fees and £1,200 VAT).
- The School/Council deducts appropriate amount of tax and NICs which it pays to HMRC.
- The Worker/Supplier or Intermediary receives £4,129 for their service plus £1,200 VAT.
- The School/Council will also pay employer's NICs on the direct payment. This will increase the cost of engaging the Worker/Supplier or Intermediary and budget holder managers will need to be mindful of the additional cost and impact on budget.

As part of this process, the Worker/Supplier or Intermediary:

- Will be subject to an appropriate tax code and pay tax at basic rate.
- Will not have to provide the School/Council with a P45 with previous earnings.
- Will be assigned a unique reference (a pay number) to help the HMRC differentiate between the Worker/Supplier or Intermediary primary employment (with their company) and secondary employment (with the School/Council).
- Will not be subject to student loan deductions.
- Will not be entitled to statutory payments i.e. sick pay.
- Will not be subject to pension deductions or enrolled in any pension scheme.

When the Worker/Supplier or Intermediary is no longer engaged (performing a service,) for the School the Engaging Manager should send an email to [payroll.notifications@shropshire.gov.uk](mailto:payroll.notifications@shropshire.gov.uk) and Payroll will close the ERP record and issue the P45 to the Worker/Supplier or Intermediary home address.

## **15. Pre Engagement Checks**

Regardless of status, any Worker/Supplier or Intermediary engaged by the School via Agency should be subject to the same employment checks as contracted employees who undertake the same or similar work. Engaging Managers should not assume any agencies will have completed all these checks as some agencies use umbrella companies to engage and pay their workers to reduce their liabilities.

Where appropriate the following checks should be completed:

- check the identity of the individual by means of an appropriate, original photo ID.
- check the original DBS certificate.
- check the individual's right to work in the UK.
- check that appropriate references have been collected and verified by the agency.
- check that the agency has carried out a full employment history.
- check that the agency has carried out a health check.
- check that the agency has verified all certificates.
- check that the individual has registered with any appropriate professional bodies.

Engaging Managers must ask the agency to provide this information and should ensure that the agency is aware of any specific requirements or employment checks required for their role.

## **16. Status Disagreement Process.**

If the Supplier/Worker or Intermediary disagrees with the Status Determination Statement (SDS) that has been issued they have the right to appeal. They must confirm to the Engaging manager within 5 working days of receipt of the SDS that they disagree with the determination and outline the grounds of their appeal, listing the specific reasons for disagreement.

The Engaging manager must respond to any challenge/appeal to the SDS within 45 days of receiving it. However, during this time the original determination will stand. Any payments will pause.

It is the Engaging manager's responsibility to review the Supplier/Worker/Intermediary's challenge/appeal to the SDS.

Once the determination has been reviewed, the Engaging manager must notify the Supplier/Worker or Intermediary the outcome of the consideration of the appeal and the reason(s) for that outcome:

- If the SDS has not changed there will be no further action.
- If the original decision has been reversed, the Engaging manager should issue a new SDS confirming the date it is valid from stating the previous determination has been withdrawn.

Any tax or national insurance wrongly deducted will be repaid to the Supplier/Worker or Intermediary.

The Engaging manager must email any revised SDS to Payment Team with the date it is valid from.

## **17. Further advice**

HR and Employment Services are best placed to provide advice. However, Schools will be best placed to undertake employment status checks on workers as they will know more about the relationship between the worker and the School.

**Appendix A - Guidance on key terms when completing the CEST. Please refer to <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm11000> if more clarification is needed.**

The following information is intended to assist Engaging Managers to understand some of the key terms and IR35 employment status indicators outlined in the CEST. In particular are three key factors taken into consideration when assessing a Workers/Suppliers or Intermediaries working arrangement to determine whether IR35 rules do (inside IR35) or do not (outside IR35) apply.

### **1. Right of Substitution**

Substitution is the ability of a Worker/Supplier or Intermediary providing a contracted service to supply a replacement contractor to carry out the service under the contract. The contract by which the services is provided by the Worker/Supplier or Intermediary should not place any obligation on them to provide a personal service to the School, as personal service is a strong indicator of employment.

In cases where HMRC investigate, they will usually examine whether a true right of substitution exists or whether the right of substitution clause has been included to give the impression that a substitute can be provided, when in practice that would never happen.

If the School will accept a substitute, it is more likely than not that **IR35 rules will not apply and so invoices can be paid without deductions**. If the School will not accept a substitute and will only engage the specific Workers/Suppliers or Intermediaries, then it becomes more likely that **IR35 rules will apply and so invoices will be paid with deductions**.

### **2. Mutuality of Obligation (MOO)**

MOO means that for an employment relationship to exist, there must be a formal obligation on the School to provide work and a formal obligation on the Worker/Supplier or Intermediary to carry out the work.

If the School is obliged to provide the Worker/Supplier or Intermediary with work to carry out on an ongoing basis and the Worker/Supplier or Intermediary has an obligation to carry out that work, a "Mutuality of Obligation" between the parties will likely exist. MOO is less likely to exist if the Worker/Supplier or Intermediary is engaged for a specific project/assignment. Once the project/assignment has ended or been completed, there should be no expectation or offer of any additional work to the Worker/Supplier or Intermediary, or if the School does offer additional work, there should be no obligation on the Worker/Supplier or Intermediary to accept it. Furthermore, the School should not request the Worker/Supplier or Intermediary to perform tasks outside the terms of the assignment. If they do so without the terms of the engagement being revised, it could be seen as indicative of employment if investigated by HMRC.

If Mutuality of Obligation DOES NOT exist, it is more likely than not that **IR35 rules will not apply and so invoices can be paid without deductions**. If Mutuality of Obligation DOES exist, then it becomes more likely that **IR35 rules will apply and so invoices will be paid with deductions**.

### **3. Direction & Control**

Control looks at whether a Worker/Supplier or Intermediary is truly independent when working under the agreed contract between it and the School. Workers/Suppliers or Intermediaries should have a high degree of expertise and knowledge. Therefore, they should not be subject to a great deal of control in terms of how the services are provided. However, "control" should not be confused with monitoring the progress or quality of the work being undertaken, as the latter is a reasonable approach adopted by the School to ensure the services are progressing according to the contractual agreement.

The more factors showing independence of work behaviour, choice of how and when to work etc., indicate a scenario where it is more likely than not that **IR35 rules will not apply and so invoices can be paid without deductions**. If the School does have significant control over work behaviour, how it is completed and when etc., then it becomes more likely that **IR35 rules will apply and so invoices will be paid with deductions**.

# IR35 Supplier/Worker/Intermediary New Starter Form

## Guidance notes and introduction

The off-payroll working rules can apply if a Supplier/Worker/Intermediary provides their services through their own limited company or another type of intermediary to the client. These rules affect any off-payroll working arrangements including agency workers, personal services companies, self-employed and Consultants.

Failure to comply with this legislation opens the School/Council to risk, including the financial requirement to pay employer's contributions on payments to those that HMRC do not believe are self-employed.

This form is not to be used for employees, and is only to be used when you have engaged a new starter that meets ALL of the following criteria:

1. You have engaged, or are looking to engage a non-employee for a period of time; AND
2. The Supplier/Worker/Intermediary has been assessed using the Employee Status Indicator (<https://www.gov.uk/guidance/check-employment-status-for-tax>) and/or HMRC directly, and is determined to be 'Inside IR35' this means they do not meet HMRC's definition of self-employed. The Supplier/Worker or Intermediary is deemed an employee of the School for tax purposes for the duration of the contract.

When completed, please return to <insert engaging manager name and email address> . A payroll record will be set-up for tax and NI to be deducted from the Supplier/Worker/Intermediary according to law, and also to allow the individual to present invoices for payment. Invoices will be dealt with in accordance with the regular accounts payable process, with the required tax and NI deductions made.

<b>You and your organisation Details</b>	
Name of Engaging Manager responsible for the engagement	
Work Address (if applicable)	
Service and Section	
Your email address	
Your telephone Number	

<b>Supplier/Worker/Intermediary Details</b>	
Full name	
Home address	
Postcode	
Date of birth	
National Insurance number	
Tax code (if known)	
Supplier (company) Name	
Company number	
Company's address	
Registered company Address (if different from above)	
Supplier (company) Name	
Company number	
VAT registration number (if applicable)	
Company's address	
Registered company Address (if different from above)	
Tel number	
Email address for remittance	
Email for purchase orders	

<b>Supplier Bank details</b>	
Bank Account Holder Name	
Bank account number	
Bank account sort code	
Building society roll ref (if applicable)	

<b>Assignment Details</b>	
Assignment Title	
Description of assignment	
Start Date	
Anticipated end date	

## Appendix C

### STATUS DETERMINATION STATEMENT (OUTSIDE IR35)

Name of Engaging Manager ("Client")	
Name of Supplier/Worker ("Worker"):	[Name]
Name of Supplier/Worker's intermediary (where applicable) ("Intermediary"):	[Name or Not known]
Name of organisation with whom the School is contracting for the supply of the Supplier/Worker's services (if not the Worker's intermediary):	[Name or N/A]
Details of Engagement ("Engagement"):	[Insert brief details of the work performed or to be performed by the Supplier/Worker/ Intermediary]
Date Engagement commenced or is due to commence:	[Date]

{Insert School Name} as the Hirer/Client has reviewed the employment status of the Supplier/ Worker/Intermediary in accordance with the **IR35 Rules** by using HMRC online tool Check Employment Status for Tax (CEST) and has determined that the Supplier/ Worker/ Intermediary **will not be regarded as an employee** for the purposes of the Engagement.

The reason(s) for this result are as follows:

*Engaging Manager to insert reason(s) using the information from 'Why you are getting this result' on the result page of the CEST.*

*(e.g. Reason 1: {Insert School Name} does not have control over this work. This suggests the Supplier/Worker/Intermediary is working on a business-to-business basis.)*

- Reason 1;
- Reason 2;
- Reason 3;
- Reason 4;

As a result of the above determination the fees payable to the Supplier/Worker/ Intermediary in connection with the Engagement shall be payable gross without deduction for income tax and employee's National Insurance contributions.

Should there be any changes to the Engagement or the manner in which the services are provided by the Supplier/Worker/ Intermediary in under the Engagement, {Insert School Name} reserves the right to undertake a further determination of the employment status of the Supplier/Worker/ Intermediary for the purposes of the IR35 Rules.

The Supplier/Worker/ Intermediary has the right to dispute this determination and is requested to raise any dispute as soon as possible upon receipt of this Statement. A copy of {Insert School Name} Disagreement Process which outlines how any such disagreement should be raised is enclosed.

Signed:	
Dated:	
Name:	
Position:	

## Appendix D

### STATUS DETERMINATION STATEMENT (INSIDE IR35)

Name of Engaging Manager (“Hirer/Client”):	
Name of Supplier/Worker (“Worker”):	[Name]
Name of Supplier/Worker’s intermediary (where applicable) (“Intermediary”):	[Name or Not known]
Name of organisation with whom the Client is contracting for the supply of the Worker’s services (if not the Worker’s intermediary):	[Name or N/A]
Details of Engagement (“Engagement”):	[Insert brief details of the work performed or to be performed by the Worker]
Date Engagement commenced or is due to commence:	[Date]

{Insert School Name} as the Hirer/Client has reviewed the employment status of the Supplier/Worker/Intermediary in accordance with the **IR35 Rules** by using HMRC online tool Check Employment Status for Tax (CEST) and has determined **that the Supplier/ Worker/Intermediary will be regarded as an employee for tax purposes.**

The reason(s) for this result are as follows:

*Engaging Manager to insert reason(s) using the information from ‘Why you are getting this result’ on the result page of the CEST.  
(e.g. Reason 1: The Supplier/Worker/Intermediary is providing a personal service to {Insert School Name}. This means they are classed as employed for tax purposes for this work.)*

- Reason 1;
- Reason 2;
- Reason 3;
- Reason 4;

As a result of the above determination, the fees payable to the Supplier/ Worker/ Intermediary in connection with the Engagement shall, in accordance with the IR35 rules, be payable net after the deduction of income tax and employee's National Insurance contributions.

The Supplier/Worker/Intermediary is therefore required to complete and return the IR35 New Supplier/Worker/Intermediary Starter form to [Engaging Manager to insert their email address] as soon as possible.

{Insert School Name} reserves the right to delay the payment, to the Supplier/ Worker/ Intermediary, of any fees due in connection with the Engagement until the required forms have been completed and returned.

Should there be any changes to the Engagement or the manner in which the services are provided by the Supplier/Worker/Intermediary under the Engagement, {Insert School Name} reserves the right to undertake a further determination of the employment status of the Supplier/Worker/Intermediary for the purposes of the IR35 Rules.

The Supplier/Worker/Intermediary has the right to dispute this determination and is requested to raise any dispute as soon as possible upon receipt of this Statement. A copy of {Insert School Name} Disagreement Process which outlines how any such disagreement should be raised is enclosed.

Signed:	
Dated:	
Name:	
Position:	

## Appendix E.

### **{Insert School Name} Status Disagreement Process (IR35)**

If the Supplier/Worker or Intermediary disagrees with the Status Determination Statement (SDS) that has been issued by {Insert School Name} they have the right to appeal, in writing, following the process below:

- Contact the Engaging Manager with the details of the IR35 determination (SDS) that you disagree with.
- Put forward your grounds of appeal, listing the specific reasons.

{Insert School Name} must respond to your appeal within 45 days of receiving it. However, in this time, your original determination will stand.

The IR35 Legislation requires {Insert School Name} to:

- Respond to the Supplier/Worker/Intermediary within 45 days from the date of receiving the Disagreement Notice.
- Continue to apply the IR35 rules in line with the original HMRC CEST determination during this time.

Once the Determination (SDS) has been reviewed the Engaging Manager must notify the Supplier/Worker/Intermediary the outcome of the consideration of the appeal and the reason(s) for that outcome:

- If the Status Determination Statement has not changed there will be no further action.
- If the original decision has been reversed, the Engaging Manager should issue a new status determination (SDS) confirming the date it is valid from stating the previous determination (SDS) has been withdrawn.

Any tax or national insurance wrongly deducted will be repaid to the Supplier/ Worker/Intermediary.

All disagreements must be emailed to the Engaging Manager that issued the original Status Determination Statement.

A disagreement can be raised until the last payment is made for a Supplier/ Worker/ Intermediary service.

Only one appeal will be considered, the decision after appeal is final.