

Checked by	NHSP
End client's name	NHS Trust
Engagement job title	Registered Nurse
Reference	Band 5

The intermediaries legislation applies to this engagement

Based on the information you've given the working practices of this engagement fall within the scope of the intermediaries legislation.

The worker should pay tax and National Insurance as if they were an employee.

You should reassess the status of the role if there are changes to the engagement or the way the work is done.

You should now do the following:

Public sector

If you're the worker you should tell the organisation that pays your fees (the fee payer) to deduct tax and National Insurance from your payment.

If you're the fee payer you need to deduct tax and National Insurance from the **worker's deemed employment payment(s)**

(<https://www.gov.uk/government/publications/off-payroll-working-in-the-public-sector-reform-of-the-intermediaries-legislation-technical-note/off-payroll-working-in-the-public-sector-reform-of-the-intermediaries-legislation-technical-note#fee-payer-accounts-for-tax-nics-apprenticeship-levy>) during this engagement.

Private sector

If you're the worker you need to follow this guidance about your taxes.

(<https://www.gov.uk/guidance/ir35-what-to-do-if-it-applies>)

About this result

HMRC won't keep a record of this transaction for security reasons.

HMRC will stand by the result given unless a compliance check finds the information provided isn't accurate.

HMRC won't stand by results achieved through contrived arrangements designed to get a particular outcome from the service. This would be treated as evidence of deliberate non-compliance with associated higher penalties.

HMRC can review your taxes for up to 20 years.

The intermediaries legislation will only apply where the worker's business (the intermediary) satisfies these specific conditions of liability. (<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm3100>)

Your answers

1. Which of these describes you best?

The end client is the public body, corporation or business that the worker is providing services to.

The end client

2. Has the worker already started this particular engagement for the end client?

No

3. How does the worker provide their services to the end client?

As a limited company

4. Will the worker (or their business) perform office holder duties for the end client as part of this engagement?

Being an office holder isn't about the physical place where the work is done, it's about the worker's responsibilities within the organisation. Office holders can be appointed on a permanent or temporary basis.

This engagement will include performing office holder duties for the end client, if:

- the worker has a position of responsibility for the end client, including board membership or statutory board membership, or being appointed as a treasurer, trustee, company director, company secretary, or other similar statutory roles

- the role is created by statute, articles of association, trust deed or from documents that establish an organisation (a director or company secretary, for example)
- the role exists even if someone isn't engaged to fill it (a club treasurer, for example)

If you're not sure if these things apply, please ask the end client's management about their organisational structure.

No

5. If the worker's business sent someone else to do the work (a substitute) and they met all the necessary criteria, would the end client ever reject them?

The criteria would include:

- being equally skilled, qualified, security cleared and able to perform the worker's duties
- not being interviewed by the end client before they start (except for verification checks)
- not being from a pool or bank of workers regularly engaged by the end client
- doing all of the worker's tasks for that period of time
- being substituted because the worker is unwilling or unable to do the work

We need to know what would happen in practice, not just what it says in the worker's contract.

Yes - the end client has the right to reject a substitute for any reason, including if it would negatively impact the work

6. Can the end client move the worker to a different task than they originally agreed to do?

This includes moving project or location, or changing to another task at the same location.

Yes - without the worker's agreement (if the worker doesn't want to change, the end client might end the engagement)

7. Once the worker starts the engagement, does the end client have the right to decide how the work is done?

This doesn't include general induction, or the need to follow statutory requirements like health and safety.

Yes - the end client decides how the work needs to be done without input from the worker

8. Can the end client decide the schedule of working hours?

Yes - the end client decides the worker's schedule

9. Can the worker choose where they work?

No - the end client decides

10. What does the worker have to provide for this engagement that they can't claim as an expense from the end client or an agency?

Not relevant

11. What's the main way the worker is paid for this engagement?

An hourly, daily or weekly rate

12. If the end client isn't satisfied with the work, does the worker need to put it right at their own cost?

No – they wouldn't need to put it right

13. Is the worker entitled to any of these benefits from the end client?

- Sick pay
- Holiday pay
- A workplace pension
- Maternity/paternity pay
- Other benefits (such as gym membership, health insurance, etc.)

These don't include benefits provided by a third-party or agency.

No

14. Is the worker responsible for any of these duties for the end client?

- Hiring workers
- Dismissing workers
- Delivering appraisals
- Deciding how much to pay someone

No

15. Does the worker interact with the end client's customers, clients, audience or users?

These are people who use or are affected by the service provided by the public body, corporation or business. This would not include the worker's colleagues or other employees.

Yes

16. When the worker interacts with the end client's customers, clients, audience or users, how do they identify themselves?

They work for the end client
