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# Off Payroll Workers update

Summary of changes from April 2021

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# Background

## What is IR35?

- *“There has for some time been general concern about the hiring of individuals through their own service companies so that they can exploit the fiscal advantages offered by a corporate structure. It is possible for someone to leave work as an employee on a Friday, only to return the following Monday to the same job as an indirectly engaged ‘consultant’ paying substantially reduced tax and national insurance. The Government will bring forward legislation to tackle this sort of avoidance.”*

- *“Counter avoidance in the area of personal service provision.”*

(Inland Revenue Budget press notice 35, March 1999)

- From April 2000 - Consultants were required to self-determine whether the rules would apply

# Reminder of the rules

## Off Payroll Working rules (2017) - Why were the rules introduced?

### *Fairness*

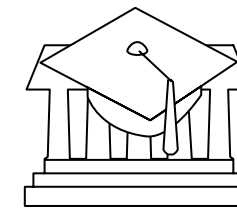
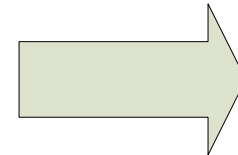
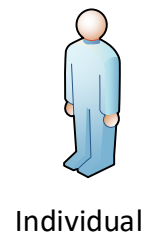
- *“...designed to ensure fairness between individuals working in a similar way. ...engagers will become responsible for assessing an individual’s employment status and deducting the right tax and National Insurance contributions”*

### *Revenue (tax) generating*

- HMRC believed hidden / “disguised” employment was costing the Treasury £Billions.
- *“Government estimates the reform has already raised an additional £550 million in Income Tax and National Insurance contributions in the first 12 months...”*
- Employers’ NIC at 13.8% and Apprenticeship Levy at 0.5%

# Reminder of the rules

Where an individual is providing **personal services** (labour) via an **intermediary**, do the Off Payroll Worker (OPW) rules apply?



## INTERMEDIARY

- Limited company
- Personal Service Company
- Partnership
- Agency / Umbrella
- Individual

# Reminder of the rules

If the intermediary were ignored, would the relationship be seen as employment?



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## “Deemed” employment for income tax purposes:

- Within the scope of the OPW rules
- All payments for labour supplies, subject to PAYE (income tax withholding and NIC)
  - By the “deemed employer”

# Changes from April 2021

## 1) Private as well as public sector

- HMRC creating a “level playing field” between private and public sector
- Restricted to “large” and “medium” sized engagers

## 2) Agencies

- Decide the employment status of every worker who operates through their own intermediary, even if they are provided through an agency

## 3) Status Determination Statement (SDS) – *(covered later)*

- Confirmation of decision making process and demonstrates “reasonable care”

## 4) Process of continuing review

- Before each new engagement or where substantive change to the engagement

## 5) Client-led dispute resolution process

- 45-day to respond to a formal appeal

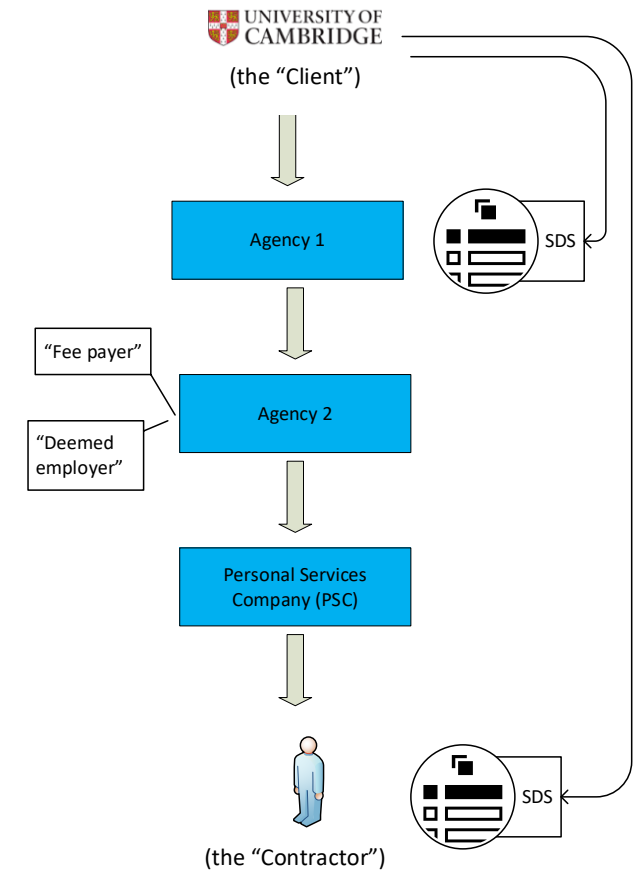
# Changes from April 2021

## Status Determination Statement

- Will be required to have a greater understanding of the labour supply chain (end-to-end)
- Need to understand chain payments
- Issued to the “worker” (the contractor) and the “fee payer”
- Lowest “qualifying person” in the chain will be the deemed employer

## Why is it so important?

- If we don't issue an SDS, or we fail to take reasonable care, the responsibility for deducting tax and National Insurance remains with us

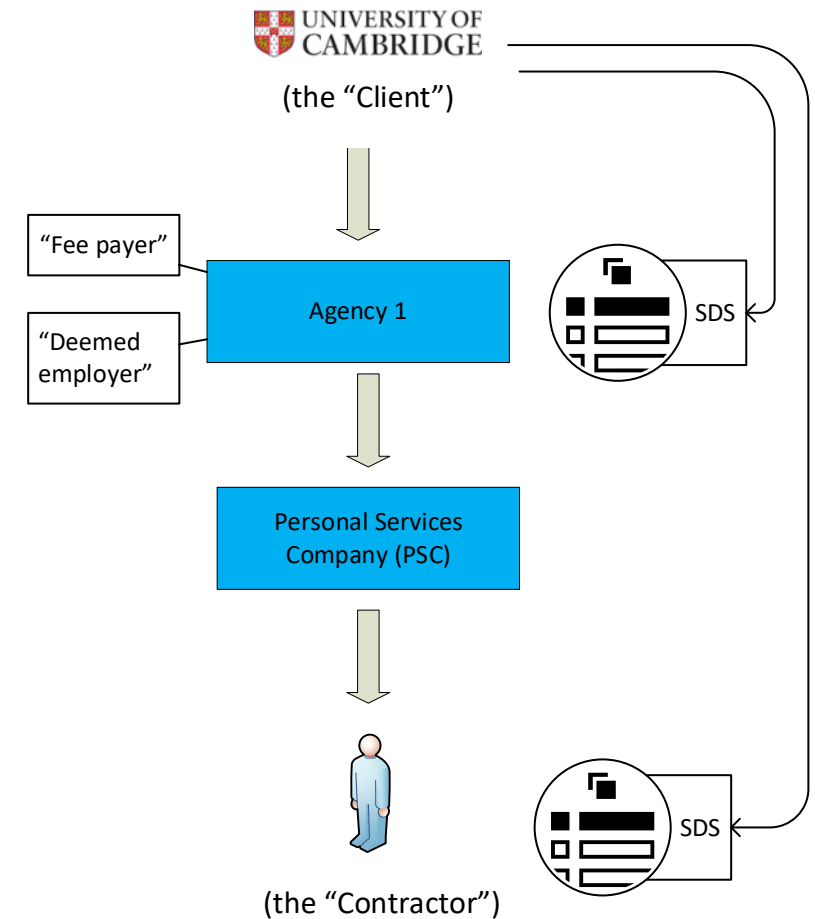




# Changes from April 2021

## Overseas issues

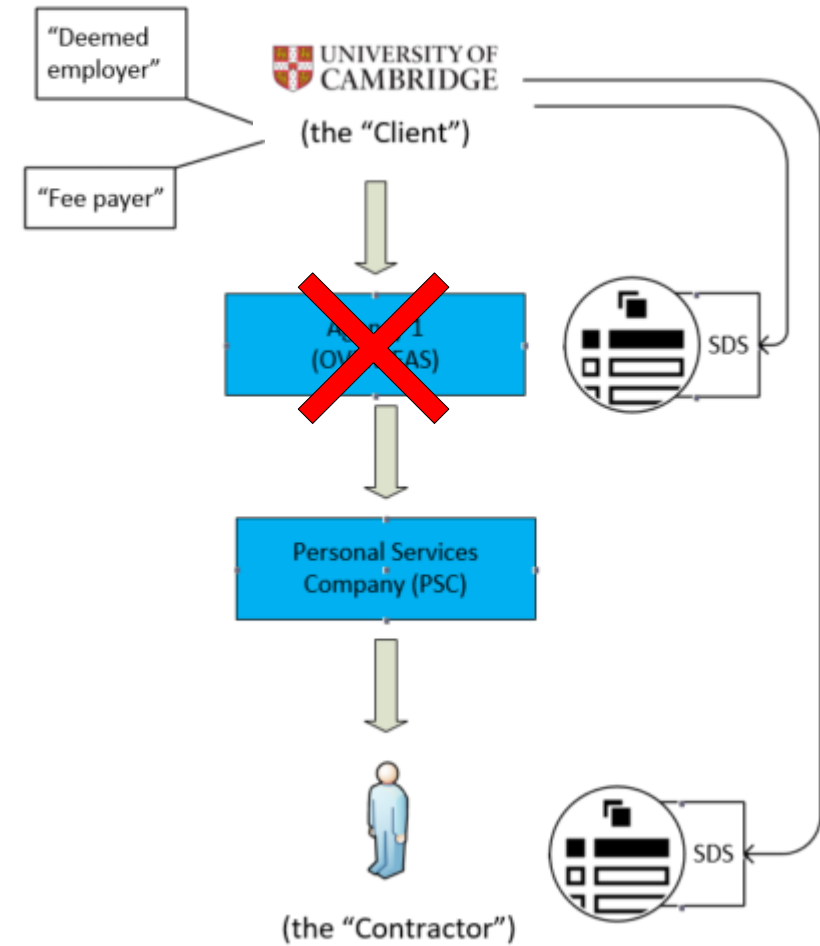
- Need to understand chain payments and where links in the chain are based (*i.e.*, UK or overseas?)
- Lowest “qualifying person” in the chain will be the deemed employer



# Changes from April 2021

## Overseas issues

- “Qualifying person” must be UK resident



# University process – FD3

## Finance Division process number 3 – FD3

- Assessment / determination is made by the Tax team
- Setting-up a new supplier
  - Tax Clearance Number issued by the Tax team
  - Agencies set-up as Master supplier (currently under development)
- Assessing a new engagement
- Extending an existing engagement
- Changes to an existing engagement
- If “caught” by/subject to OPW rules, department will need to provide copy of the SDS and covering email to:
  - i. Entity with whom we contract
  - ii. Worker

Note: worker will need to provide information to facilitate payroll

# Future improvements

## 1) Training and guidance materials

- Refresher
- Detailed training for anyone unfamiliar with the rules

## 2) Simplified process(es)

- Engagement process
  - Improvements to the FD3 questionnaire
- Payment process

## 3) Overseas engagements

- The University is looking at how we engage individuals to provide services overseas

# Key takeaways

- 1) Assess status before each engagement**
  - A change in engagement will need to be reassessed
- 2) Individuals providing services via agencies**
  - Will need to be assessed and SDS(s) issued
- 3) Reasonable care**
  - Important to follow process in order to protect the University
- 4) Training and guidance**
  - Important to follow process in order to protect the University



**Any questions....?**

# Additional information

**Any queries or advice:**

***[FD3@admin.cam.ac.uk](mailto:FD3@admin.cam.ac.uk)***

**Appeals against SDS:**

***[SDSStatusAppeal@admin.cam.ac.uk](mailto:SDSStatusAppeal@admin.cam.ac.uk)***

