



PWYLLGOR ADNODDAU CYNALIADWY SUSTAINABLE RESOURCES COMMITTEE

DYDDIAD Y CYFARFOD: DATE OF MEETING:	27 February 2024
TEITL YR ADRODDIAD: TITLE OF REPORT:	Financial Procedures
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Huw Thomas, Director of Finance
SWYDDOG ADRODD: REPORTING OFFICER:	Timothy John, Senior Finance Business Partner (Accounting & Statutory Reporting)

Pwrpas yr Adroddiad (dewiswch fel yn addas)

Purpose of the Report (select as appropriate)

Ar Gyfer Penderfyniad/For Decision

ADRODDIAD SCAA SBAR REPORT

Sefyllfa / Situation

Each year planned reviews are undertaken of the financial procedures operated by Hywel Dda University Health Board (HDdUHB). The procedures, which set out the main financial system controls, are reviewed in terms of: -

- Relevance
- Best practice
- Audit recommendations
- System change
- Health Board policy

Cefndir / Background

The following procedure has been reviewed and is presented to the Sustainable Resources Committee for approval:

- FP 1030 06-06 Tax Status of Workers (Appendix 1)

The following procedures have a review date after February 2024 and will be presented to the Sustainable Resources Committee for approval at the April 2024 meeting:

- FP 87 Custody of Safe Keys
- FP 76 Capital Investment
- FP 1000 Stock

The review date of the following procedure falls in February 2024 but owing to resource constraints has not been reviewed. It will be presented to the Sustainable Resources Committee for approval at the April 2024 meeting:

- FP 65 Budgetary Control

Asesiad / Assessment

FP 1030 06-06 Tax Status of Workers

The aim of this financial procedure is to identify the key considerations and actions that must be taken by Health Board employees, when entering the Health Board into engagements for the services of individuals, in order to ensure that payments for those services are made in compliance with tax regulations. In particular, the procedure discusses the Health Board's obligation to determine the employment status of individual workers which are engaged directly and to determine whether the Off-payroll Working ("IR35") legislation applies to engagements entered into with third parties for the services of individual workers.

Argymhelliad / Recommendation

The Sustainable Resources Committee is asked to approve the following updated financial procedure:

- FP 1030 06-06 Tax Status of Workers

The Sustainable Resources Committee is requested to approve an extension to the review date of the following procedure:

- FP 65 Budgetary Control

Amcanion: (rhaid cwblhau)

Objectives: (must be completed)

Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	3.13 Review and approve financial procedures on behalf of the Health Board.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not Applicable
Galluogwyr Ansawdd: Enablers of Quality: Quality and Engagement Act (sharepoint.com)	Not Applicable
Parthau Ansawdd: Domains of Quality Quality and Engagement Act (sharepoint.com)	Not Applicable
Amcanion Strategol y BIP: UHB Strategic Objectives:	All Strategic Objectives are applicable

Amcanion Cynllunio Planning Objectives	Not Applicable
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022	10. Not Applicable

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	Previous procedures, internal audit report recommendations, standing financial instructions
Rhestr Termau: Glossary of Terms:	Included within the body of the report
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Adnoddau Cynaliadwy: Parties / Committees consulted prior to Sustainable Resources Committee:	HDdUHB Finance HDdUHB Local Counter Fraud Service HDdUHB Workforce & OD HDdUHB Audit and Risk Assurance Committee (ARAC) NHS Wales Shared Services Partnership (NWSSP)

Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	Financial procedures are required to ensure sound financial control
Ansawdd / Gofal Claf: Quality / Patient Care:	Not applicable
Gweithlu: Workforce:	Not applicable
Risg: Risk:	Financial procedures are required to ensure good governance and therefore minimise risk
Cyfreithiol: Legal:	Not applicable

Enw Da: Reputational:	Financial procedures are required to ensure good governance and sound financial control
Gyfrinachedd: Privacy:	Not applicable
Cydraddoldeb: Equality:	<p>EqlA has been undertaken with no negative impacts on those with protected characteristics (Appendix 2).</p> <p>Changes to the majority of financial policies and procedures to date have been assessed as having a low relevance to equality duties and have been mainly in relation to systems and responsibilities with no direct or indirect impact on individuals in relation to equality, diversity or human rights.</p> <p>Where policies and procedures have a more direct impact on patients, staff and service users in relation to their protected characteristics, e.g. those addressing the handling of patients monies, etc, more detailed EqlAs have been undertaken and are published alongside the relevant document.</p>

TAX STATUS OF WORKERS

Financial Procedure FP 06/06

Procedure information

Procedure number: 1030

Classification:

Financial

Supersedes:

Previous version

Version number:

2

Date of Equality Impact Assessment:

Detail date of EqIA

Approval information

Approved by:

Sustainable Resources Committee

Date of approval:

Enter approval date

Date made active:

Enter date made active (completion by policy team)

Review date:

Enter review date (normally three years from approval date)

Summary of document:

This document describes key considerations and actions that must be taken by Hywel Dda University Health Board employees, when entering the Health Board into engagements for the services of individuals, in order to ensure that payments for those services are made in compliance with tax regulations. In particular, the procedure discusses the Health Board's obligation to determine the employment status of individual workers which are engaged directly and to determine whether the Off-payroll Working ("IR35") legislation applies to engagements entered into with third parties for the services of individual workers.

Scope:

Hywel Dda University Health Board wide

To be read in conjunction with:

Standing Orders.

Standing Financial Instructions.

Other Financial Procedures – see [financial procedures page](#) (opens in a new tab)

[815 - Counter Fraud, Bribery and Corruption Policy](#) (opens in a new tab)

[Ethical Employment Policy](#)

Patient information:

[Patient Information Library](#)

Owning group:

Finance Directorate

Executive Director job title:

Director of Finance

Reviews and updates:

1 – new procedure 23.3.2021

2 – revised

Keywords

Tax employment status

Off-payroll Working legislation ("IR35")

Fraud, bribery and corruption

All staff are required to comply with the Health Boards policies and procedures and apply best practice in order to prevent Fraud, Bribery and Corruption. Staff should be made aware of their own responsibilities in protecting the Health Board from these crimes.

All staff have a duty to notify the Local Counter Fraud Department of any suspected fraud or inappropriate actions and are protected by the AW Raising Concerns (Whistleblowing) Policy. Anyone who suspects fraud or has any concerns reference Fraud Bribery and Corruption can make a referral by contacting the Counter Fraud Department by either of the following methods;

- Telephoning the office on 01267 248627,
- Emailing HDUHB.CounterFraudTeam.HDD@wales.nhs.uk ,
- Making an online referral at <https://reportfraud.cfa.nhs.uk> or
- Making an anonymous referral by telephoning Crimestoppers on 0800 028 40 60.

Staff should refer to the [815 - Counter Fraud, Bribery and Corruption Policy](#) (opens in a new tab) for further information.

Contacts

For further advice and assistance in connection with this procedure, please contact:

Finance Business Partner (Compliance & Tax)

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Glossary of Terms

Worker	An individual who provides his/her services.
Client organisation	The body which is in receipt of the worker's services.
Engagement	A contractual arrangement for the services of a worker to be provided to a client organisation.
Tax status (of the engagement)	Employed or self-employed for tax purposes or whether the Off-payroll working legislation applies or does not apply.
Off-payroll Working legislation	UK tax legislation which requires certain bodies to determine the tax employment status of workers engaged indirectly.
“IR35”	Informal name for the Off-payroll Working legislation.
PAYE	“Pay As You Earn”. A system operated by employers whereby income tax and National Insurance Contributions (NIC) is deducted from a worker's pay and paid over to HMRC.
HMRC	His Majesty's Revenue and Customs. Government department responsible for the administration and collection of taxes in the UK.
Service Managers	General term for health board staff who make arrangements for additional staff resource or services to be provided to the health board. Includes all staff raising a requisition via the Oracle iProcurement system and requisition approvers.

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Introduction

As an employer, Hywel Dda University Health Board (“the health board”) is under a legal obligation to declare and pay over to His Majesty’s Revenue & Customs (HMRC) income tax and National Insurance Contributions (NIC) in respect of payments it makes to individuals who are its employees for tax purposes. If the health board was to incorrectly treat an individual as self-employed and therefore not make the required declarations, it may face a liability to HMRC for the tax and NIC under-declared and be issued with a penalty for non-compliance. The health board must therefore have robust procedures in place for correctly determining the **tax employment status** of all individuals providing services to it.

As a public body, the health board is also under a legal obligation to determine the tax employment status of certain workers engaged via third party bodies. In doing so, the health board determines whether the **Off-payroll Working legislation (a.k.a. “IR35”)** applies.

The health board is committed to be fully compliant with its obligations under UK tax legislation. This document sets out the process and procedures to be understood and followed by all HDdUHB staff in order to comply with the above legal obligations to consider the “tax status” of workers not engaged for by way of the Health Board’s general staff recruitment route.

Employment status for tax purposes is not to be confused with employment status for employment rights purposes, which defines the rights and responsibilities of a worker and hiring body respectively under employment law. Nothing in this document shall be considered as guidance in respect of a worker’s employment status for employment rights purposes.

Considerations before using temporary staff or contractors

Staff shall consider whether HDdUHB’s general recruitment pathway offers a more suitable and better value for money option for the Health Board in sourcing the required services or additional worker resource compared to engagement under a contractor, self-employed or agency arrangement. Where this has not been considered, staff shall consult their Workforce & Organisational Development department representative to discuss their requirements.

Roles and responsibilities

Responsibility	Staff/team responsible
Consider the tax status of workers when establishing the terms of any new engagement	Service Manager
Determine whether a formal tax status assessment is required	Service Manager
Complete draft tax status assessment where required	Service Manager
Produce final tax status determination	Finance Business Partner (Compliance & Tax)
Conclude if the final tax status determination is acceptable to all parties	Service Manager
Engage via the appropriate pathway	Service Manager
Manage tax status disputes	Finance Business Partner (Compliance & Tax)
Monitor and reconsider the tax status throughout engagement	Service Manager

Principles

Employment status for tax purposes

The engagement between a worker contracted directly by a client organisation will either be one of employment or self-employment for tax purposes.

Impact

The following table summarises the impact of employment status for tax purposes on both the worker and client organisation.

Area of impact	Employment	Self-employment
Income tax	Worker will be subject to income tax on the gross income from the engagement.	Worker will be subject to tax on the profit from the engagement.
National Insurance Contributions (“NIC”)	The worker will be subject to Employer’s Class 1 NIC. The client organisation will be subject to Employer’s NIC.	The worker will be subject to Class 2 and 4 NIC. The client organisation will not be liable to NIC.

<p>How tax and NIC are reported and paid</p>	<p>The client organisation will be responsible for declaring to HMRC the income tax and both Employer's and Employee's NIC due in respect of payments to the worker by way of a Pay As You Earn (PAYE) system, typically operated by its payroll function.</p> <p>The client organisation will deduct the income tax and Employee's NIC payable by the worker from the worker's pay and pay this amount over to HMRC on the worker's behalf, along with the Employer's NIC liability.</p>	<p>The worker will be responsible for reporting the profit generated from the engagement in an annual tax return and paying over to HMRC the tax and NIC payable.</p>
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Key principles of tax employment status

- Employment status cannot be chosen by the parties. It is dictated by the actual terms, conditions and working relationship between the hiring body and the worker. If the worker works in a similar way to an employee, the worker is likely to be employed for tax purposes.
- Employment status must be considered on an engagement-by-engagement basis. A worker who provides services by way of multiple engagements with the same or a different hiring body may be employed for tax purposes under one engagement but self-employed for tax purposes under another, depending on the terms of each engagement.
- Should the terms of an engagement change, the employment status of the engagement for tax purposes may also change.

Who is responsible for determining employment status for tax purposes?

The onus to correctly determine employment status for tax purposes typically falls on the client organisation. It is therefore important that all client organisations have robust processes for determining who are and who are not their employees for PAYE/tax purposes.

Off-payroll working legislation (“IR35”)

Introduction

Client organisations commonly engage for the services of workers indirectly, by entering into engagements with third party bodies which in turn engage workers to provide their services to the client organisation. Such third parties may include staff agencies or the worker’s own company.

The Off-payroll working legislation puts an obligation on some client organisations to also determine the employment status of workers engaged indirectly in this way, potentially creating an obligation on one body within the supply chain to operate PAYE on payments for the worker’s services.

The Off-payroll working legislation was introduced in its original form in 2000 by way of Inland Revenue leaflet number IR35. Consequently, the legislation became more commonly referred to as “IR35” legislation, which continues to be used widely and is now also commonly used to refer to the current “Off-payroll working legislation”. For the purpose of this procedure, the Off-payroll working legislation will be referred to by its formal name.

When Off-payroll working legislation applies

The Off-payroll working legislation applies where:

- An individual personally performs services,
- To a client who is a public authority,
- By way of a contract involving an “intermediary”,
- Such that, had the contract been made directly between the client and the worker, the worker would be regarded as an employee of the client.

Where an *intermediary* is:

- A company in which the worker (together with the worker’s relatives) holds at least a 5% interest, e.g. owns 5% or more of the company’s shares.
- A partnership of which the worker is a member, or
- Another individual.

Impact of the legislation

Where the legislation applies, one body in the contractual chain (normally the body which directly engages with the intermediary) will be treated for tax purposes as being the employer of the worker for

tax purposes and must operate PAYE when making payment to the intermediary for the worker's services, thereby making payment net of tax and NIC deductions.

Responsibilities of the client organisation

Where a client organisation receives the services of a worker engaged indirectly, it is the responsibility of the client organisation to:

- Determine whether the Off-payroll working rules apply to the engagement.
- Communicate that decision to both the worker and the party engaged with for the worker's services (the immediate supplier).
 - This must be done in the form of a **Status Determination Statement** sent before the first payment is made under the engagement.
- Operate PAYE on payments to the intermediary if applicable.
- Consider and respond to a status dispute from either the worker or the deemed employer in accordance with an internally established **Status Disagreement Process**.

Determining employment status for tax purposes

There is no unambiguous definition of what is and what is not employment for tax purposes. Instead, an interpretation of what is employment for tax purposes has developed over time in the UK courts in the form of case law. Such case law has identified several indicators of employment, which should be considered in determining, on balance, whether a worker is employed or self-employed for tax purposes.

Key indicators of employment for tax purposes are summarised in [Appendix A](#).

HMRC's Check Employment status for Tax online (CEST) tool

HMRC's CEST tool is an online tool maintained by HMRC which can assist with the determination of tax status. The CEST tool is an online questionnaire, which asks a series of simple, non-technical questions in respect of an engagement. The output of the tool is one of the following three conclusions:

1. "Employed for tax purposes for this work" or "Off-payroll working rules (IR35) apply"
2. "Self-employed for tax purposes for this work" or "Off-payroll working rules (IR35) do not apply"
3. "Unable to make a determination"

HMRC will stand by the result of the CEST tool provided the responses to the questions within the tool accurately reflect the working arrangement between the parties and have not been achieved through contrived arrangements deliberately created to achieve a particular result.

The output "Unable to make a determination" suggests that the engagement under consideration is borderline and the responses to the CEST alone are not sufficient to conclude on status. In this scenario, a judgement must be made taking account of the wider guidance within HMRC's Employment Status Manual.

The CEST tool can be accessed by anyone via the following link:

[HMRC CEST tool](#)

Disagreements

Given the absence of an unambiguous definition of employment for tax purposes and the reliance on forming a judgement based on past case law, disagreements in respect of the employment status of a worker for tax purposes are common.

Procedures

Considering the tax status of workers when establishing the terms of any new engagement

When establishing the terms of (and before entering into) an engagement for additional staff resource or a service involving a significant level of performance by individuals, Service Managers shall:

- Consider what will be the likely tax status of any workers providing their services to the health board under the engagement.
- Understand the implications of that tax status, including whether it will result in an obligation to operate PAYE on payments to the worker.
- Conclude whether these implications will be acceptable to all parties to the engagement.
- Understand the pathway via which the proposed engagement can be entered into.
 - Service Managers shall note that, where the proposed engagement would result in the health board becoming liable to operate PAYE on payments it makes under the engagement, engagement via the NWSSP Procurement services pathway will not be possible and Service Managers will not be permitted to raise a requisition via the Oracle iProcurement system. Where this is the case, Service Managers shall seek advice from the Workforce department regarding if and how the engagement in question can be entered into.

Service Managers are encouraged at this stage to make use of [HMRC's CEST tool](#) alongside guidance within this procedure in order to understand the likely tax status of workers under the engagement. Service Managers are also encouraged to seek guidance from the Finance Business Partner (Compliance & Tax).

Once engagement terms have been drafted, Service Managers shall ensure that terms are set out in writing and reflect the actual proposed working relationship between the health board and the worker. Written terms shall be retained for future inspection.

Determining whether a formal tax status assessment is required

Service Managers shall:

- Determine whether a formal tax status assessment is required in respect of any workers providing their services to the health board by completing the following linked form:

[Is a tax status assessment required?](#)

- Make this determination:
 - Before making arrangements to enter the health board into a new engagement,
 - Before extending or amending an existing engagement, and

- Periodically during the course of the engagement but no less often than 6-monthly.

If a tax status assessment is not required

Service Managers may proceed to make arrangements to enter the health board into the engagement as intended.

If a tax status assessment is required

Proceed to the next section below:

Completion of draft tax status assessment by Service Managers

Where it has been concluded that a tax status assessment is required, Service Managers shall:

- Produce a draft tax status assessment by completing [HMRC's CEST tool](#).
 - The responses provided to the questions should reflect to the best of the Service Manager's understanding the terms of the proposed engagement for the worker's services.
- Print to PDF and email a copy of the output from the CEST tool to the [Finance Business Partner \(Compliance and Tax\)](#) for review. This shall be accompanied by a description of the proposed engagement, details of the contractual chain and any written agreements.

Review of draft tax status assessment by the Finance Business Partner (Compliance & Tax)

The Finance Business Partner (Compliance and Tax) shall:

- Review the draft CEST assessment completed by the Service Manager alongside the additional information provided and discuss and challenge any of the responses provided where relevant.
- Make a final tax status determination, which shall represent the health board's official tax status determination.
 - Where the tax status determination is "Off-payroll working legislation applies", the Finance Business Partner (Compliance & Tax) shall in addition produce a Tax Status Determination Statement (Tax SDS) in accordance with the requirements of the Off-payroll working legislation. A template Tax SDS is included in [Appendix B](#).
- Record and store the determination reached along with supporting evidence for future inspection.
- Communicate the final tax status determination to the Service Manager, providing a copy of the Tax SDS where this has been produced.

Only a tax status determination made by the Finance Business Partner (Compliance and Tax) or another member of staff expressly authorised by the Director of Finance shall be considered to be a health board official tax status determination.

Conclude whether the final tax status determination is acceptable to all parties

Service Managers shall:

- Understand the implications of the health board's official tax status determination and conclude whether the proposed engagement remains acceptable to the Health Board.
- Communicate in writing the health board's official tax status determination to the immediate supplier and worker (where the worker is known and different to the immediate supplier).
 - Where one has been provided, a copy of the Tax SDS shall also be provided and evidence shall be provided to the Finance Business Partner (Compliance and Tax) that the Tax SDS has been issued to the relevant parties and the date of issue.
- Conclude whether the proposed engagement remains acceptable to all parties to the engagement in light of the determined tax status. An engagement shall be deemed to be no longer acceptable to other parties to the engagement where, for example:
 - The tax status determination is disputed or not accepted by at least one party,
 - Payment net of income tax and NIC is unacceptable to the worker,
 - Being obligated to operate PAYE is unacceptable to the entity responsible for doing so.
- Not make arrangements to enter the health board into the engagement where it is known or suspected that the proposed engagement will no longer be acceptable to all parties.
 - Parties to the engagement may instead choose to amend the terms and proposed working relationship under the engagement. If so, it will be necessary to reconsider the tax status of the amended proposals.
- Refer at the earliest opportunity any challenges or disputes from any party concerning the determined tax status to the Finance Business Partner (Compliance and Tax).

Engagement via the appropriate pathway

After the tax status of a proposed engagement has been concluded and the proposed engagement remains acceptable to all parties, the Service Manager may proceed to make arrangements to engage the health board with the worker or supplier in question.

Where the tax status of the proposed engagement will result in engagement via the NWSSP Procurement Services pathway not being permitted, Service Managers shall not raise a requisition via the Oracle iProcurement system. Instead, Service Managers shall seek advice from the Workforce & Organisational Development department regarding if and how the health board may enter into the proposed engagement.

Management of tax status disputes

Parties to an engagement may choose to dispute the health board's official tax status determination on the basis that they consider it to be incorrect. All status disputes shall be referred to the Finance Business Partner (Compliance and Tax) immediately.

In order to make a valid dispute, the relevant party must provide, in writing, to the Service Manager or Finance Business Partner (Compliance and Tax), reasons why it disagrees with the determination so that the health board has sufficient information to consider the dispute.

Following the receipt of a valid dispute, the Finance Business Partner (Compliance and Tax) shall commence the health board's Status Disagreement Process (SDP), which is set out in [Appendix C](#).

Following the completion of the SDP, either the original tax status determination will remain in place and will be deemed to be final or it will be replaced by a revised tax status determination.

If the tax status continues to be disputed

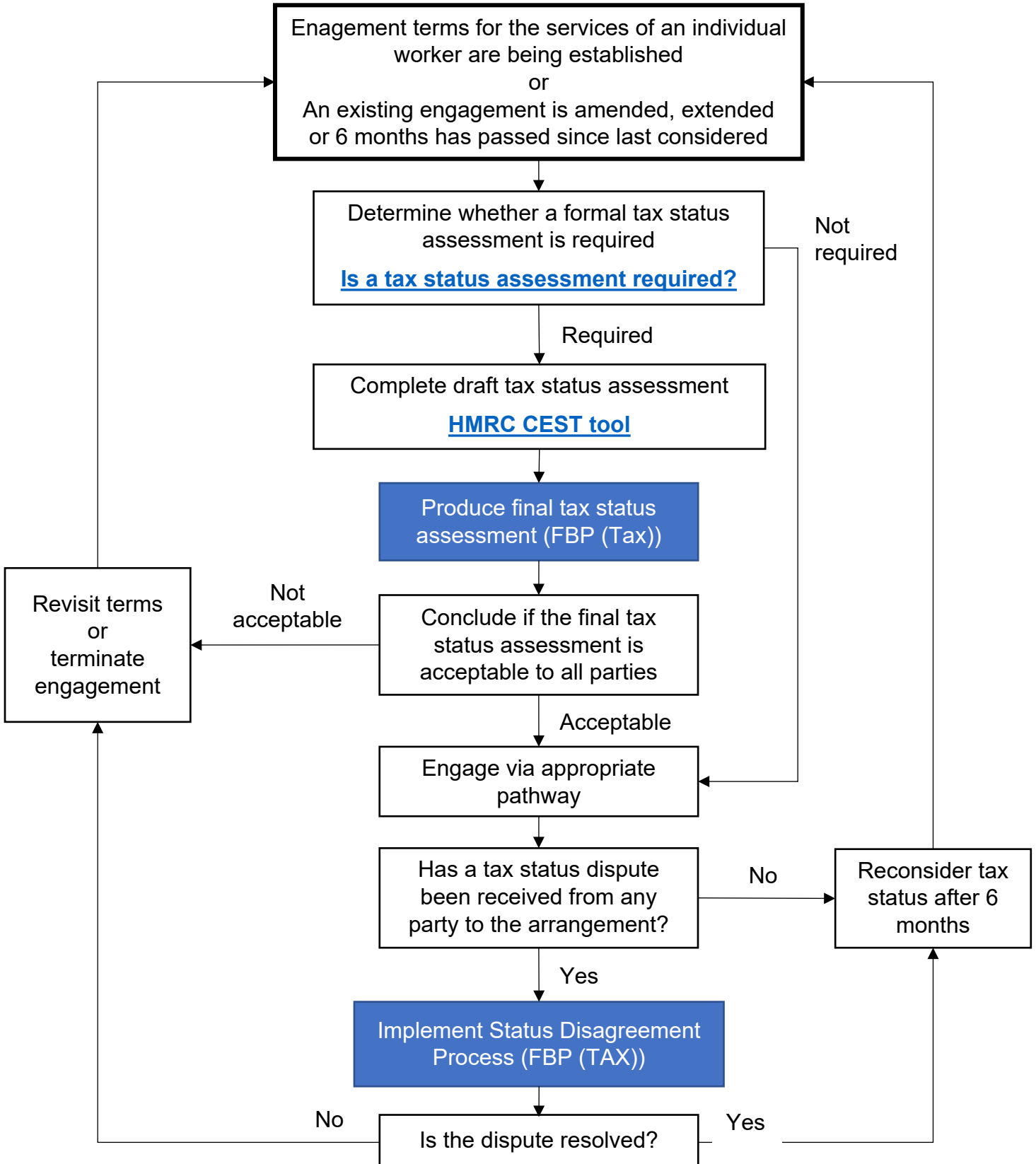
Service Managers should make arrangements to terminate the engagement. Operational concerns over a specific worker's unwillingness to work as a direct result of an undesirable tax status should be referred to the health board's dedicated resourcing team within the Workforce & OD department for assistance in seeking alternative resource or skills. Where alternative resource or skills cannot be sourced and operational risk remains high as a result of the unfilled post, any final risk-based decision on whether to apply in practice a different tax status to that determined by the Finance department shall be made by the Director of Workforce & Organisational Development.

Monitoring and reassessment of tax status

During the course of an engagement, the working relationship between a worker and a hiring body or end client may change, thereby potentially impacting the worker's tax status. Accordingly, Service Managers shall reconsider the tax status of all engagements on a periodic basis, but no less often than every 6 months, by reperforming the procedures set out in this document.

In addition, any proposed extension or amendment of an existing active engagement shall be considered as a proposed new engagement for the purposes of tax status and Service Managers shall consider the tax status of the proposed extended or amended engagement.

Summary Process Flow Diagram



Monitoring and review

The Finance department shall be responsible for the on-going monitoring and review of this procedure. Reviews shall be undertaken every 3 years, or when changes are identified prior to the review date, in line with the Health Board's review policy.

Appendix A – Indicators of employment for tax purposes

Most relevant indicators	Significance
Right of substitution	A self-employed worker may sub-contract the service provided to another provider or send another worker to perform the services under the engagement on their behalf. An employee typically cannot send a “substitute” to perform their role for an employer. Any engagement which provides restrictions on a worker’s ability to send someone else to perform their services without prior approval is therefore a strong indicator that an employer/employee arrangement exists.
Right of control	If the engagement gives the end client the right to control what, how, where or when work is done by a worker, either by explicit instructions or by having to adhere to policies or organisational governance procedures, this is a strong indicator of an employer/employee arrangement. Where there is no right or no scope for the organisation to control any of the worker’s activities, this will be self-employment as some control is a necessary element of employment.
Financial risk	A self-employed person is likely to bear a risk of making a loss under the engagement, e.g. by owning assets and any specialist equipment required for the task, bearing overheads or having to correct substandard work for no extra fee. A self-employed person will also have an opportunity to profit from carrying out the work more efficiently, e.g. by agreeing a fixed fee for the project regardless of the actual time taken. The greater the financial risk borne by the worker, the stronger the pointer towards self-employment.
Part and parcel of the organisation	If the worker is undertaking a senior leadership role or will be responsible for directing or managing staff or giving appraisals to staff members, this is an indicator of an employment arrangement. Similarly, if the services provided are similar to those typically performed by regular employees (rather than being highly specialised or skilled work which could not be performed by a member of staff), this is also a pointer towards employment.

Integration within the organisation	Is the worker given a dedicated workspace and an organisation's phone number and email address? Does the worker wear the organisation's uniform or would otherwise be indistinguishable from regular employees? Does the worker attend work social events? The more integrated a worker is into the organisation, the greater the pointer towards employment.
Number of clients	If the worker performs similar services for a number of other clients at any one time, this is an indicator of self-employment, otherwise a single engagement is an indicator of employment.

Irrelevant indicators	Why largely irrelevant?
Intention of the parties	It is the reality of the arrangement that matters.
Worker declares all income to HMRC on a tax return	This is an implication of self-employment, not an indicator.
Length of the engagement	Legislation does not specify a minimum length of service for an employment arrangement to exist. Although in practice, the longer the engagement, the more likely it is that the engagement will be one of employment due to the more relevant indicators becoming more significant.

Appendix B – Tax Status Determination Statement

Tax Status Determination Statement

Worker name:	
Supplier contracted with:	
Intermediary name (if applicable):	
Role title/service description:	
Contract/Extension Start Date:	
Contract End Date:	

Off-payroll working legislation applies

This document certifies that Hywel Dda University Health Board (“HDdUHB”) has determined the status of the above engagement for the services of the above-named worker for the purposes of Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003) (the “Off-payroll working legislation”).

HDdUHB has determined that the condition in section 61M(1)(d) is met – that is, if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as *[an employee of the client/the holder of an office under the client]*.

Reasons for the determination

- Reason 1
- Reason 2
- Reason 3
- Reason 4
- Reason 5

This status determination was arrived at with the support of the HMRC Check Employment Status for Tax Tool, the output of which is attached.

If you have any questions regarding HDdUHB's reasons for reaching its determination, please use the contact details provided.

If you disagree with the conclusion of this tax status determination statement and would like HdDUHB to reconsider its determination, please provide your reasons as to why you believe the status determination to be incorrect. All representations should be made in writing to either the email address or postal address below and should include sufficient information to enable HDdUHB to fully consider the representations made. Where valid reasons or new information not previously taken into account are provided, HDdUHB will perform a reassessment and, if necessary, issue an amended tax status determination statement.

Mr Gareth H Jones
Finance Business Partner (Compliance and Tax)
Finance Department
Ty Gorwel
St David's Park
Job's Well Road
Carmarthen
Carmarthenshire
SA31 3BB

Gareth.jones19@wales.nhs.uk

If you continue to be in disagreement with the tax status determination statement and as a result believe that taxes will be applied incorrectly, the worker may seek to correct the position directly with HMRC by way of the income tax self-assessment process.

Background

The Off-payroll working legislation applies when (section 61M, ITEPA 2003):

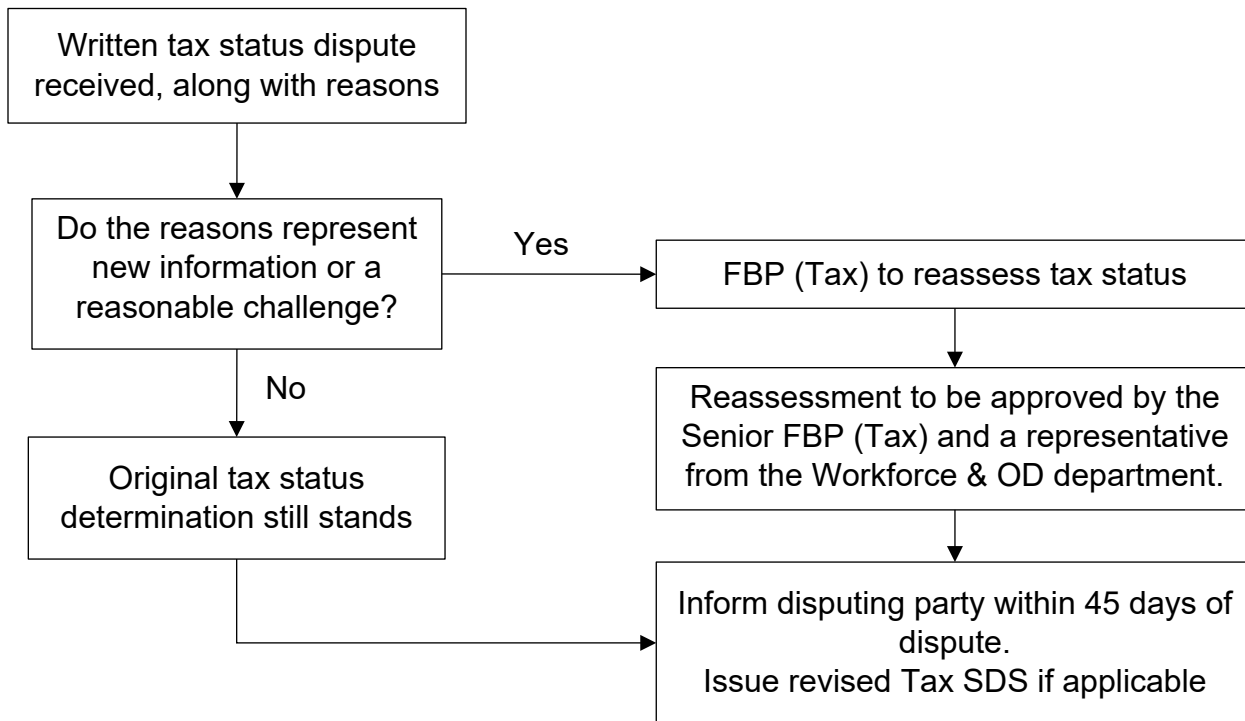
- an individual ("the worker") personally performs services,
- for a client which is a public authority,
- under a contract not made directly between the client and the worker but under arrangements involving an "intermediary", and
- under circumstances such that if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client.

When the legislation applies, one person in the supply chain (typically the body making payment to the intermediary) is treated, for tax purposes, as making to the worker a payment in respect of which it must operate PAYE.

It is the responsibility of the public authority client to correctly determine whether the legislation applies in respect of a particular engagement and to communicate that determination to the person directly contracted with. HDdUHB is a public authority for the purposes of this legislation.

HDdUHB makes use of guidance published in HMRC's Employment Status Manual in determining whether a worker would be regarded as employed for tax purposes if contracted directly and makes use of HMRC's online Check Employment Status for Tax (CEST) tool.

Appendix C – Tax Status Disagreement Process (SDP)



Step 1 – Consideration of reasons for status dispute

The Finance Business Partner (Compliance and Tax) (“FBP (Tax)”) shall consider whether the reasons provided represent new and valid information which had not been factored into the original status assessment or whether the reasons provided represent a reasonable challenge to the original conclusion. If not, a reassessment of tax status will not be required.

Step 2 – Re-perform the tax status assessment if necessary

If the reasons represent a valid challenge or provide new information, the FBP (Tax) shall re-perform the status assessment in light of the new information and shall seek the Senior FBP’s approval of the reassessment as an additional assurance measure. A new Tax SDS shall be produced if applicable.

Step 3 – Issue response within 45 days

Where the Off-payroll working rules apply, the health board has a statutory obligation to provide a response in writing to any status dispute within 45 days of receipt of the dispute. The health board’s response should include the issuing of an amended Tax SDS where this has been deemed necessary.

Equality Impact Assessment (EqIA) Screening Template

The Equality Impact Assessment Screening Template is a short exercise that involves looking at the overall proposal and deciding if it is relevant to the Public Sector Equality Duty, and other key areas.

The questions in the Screening Template below will help you to decide if the proposal is relevant to the Equality Act 2010 and whether a detailed EqIA is required. The key question is whether the proposal is likely to have an impact (either positive or negative) on any of the protected characteristics.

Quite often, the answer may not be obvious, and staff, service-user or provider information will need to be considered to make a preliminary judgment.

There is no one size fits all approach, but the screening process is designed to help fully consider the circumstances and to inform evidence-based decisions.

Note: If the proposal is of a significant nature and it is apparent from the outset that a full Equality Impact Assessment (EqIA) will be required, then it is not necessary to complete the Screening Template and you can proceed to complete the full EqIA.

What to do:

In general, the following questions all feed into whether an EqIA is required:

- How many people is the proposal likely to affect?
- How significant is its impact?
- Does it relate to an area where there are known inequalities?

At this initial screening stage, the point is to try to assess obvious negative or positive impacts.

You will need to provide sufficient information within the template to justify the assessment of impact.

If a negative/adverse impact has been identified (actual or potential) during completion of the screening tool, a full EqIA must be undertaken.

If no negative / adverse impacts arise from the proposal, it is not necessary to undertake a full EqIA however, the decision and justification must be clearly recorded.

On completion of the Screening Template, staff should:

- Check that all sections of the template are fully completed.
- Ensure that the Project/Policy owner has signed off the Screening Template.
- Send a copy of the completed template along with the related policy to the Diversity & Inclusion Team for them to review – email this to Inclusion.hdd@wales.nhs.uk

Date of commencement of Screening Assessment:	25 January 2024
Screening conducted by (name and email address):	Gareth H Jones Gareth.Jones19@wales.nhs.uk
Title of programme, policy or project being screened:	1030 - Financial Procedure 06-06 Tax Status of Workers

Description of the programme/policy/project being screened (including key aims and objectives)

As an employer, Hywel Dda University Health Board (“the health board”) is under a legal obligation to declare and pay over to His Majesty’s Revenue & Customs (HMRC) income tax and National Insurance Contributions (NIC) in respect of payments it makes to individuals who are its employees for tax purposes. If the health board was to incorrectly treat an individual as self-employed and therefore not make the required declarations, it may face a liability to HMRC for the tax and NIC under-declared and be issued with a penalty for non-compliance. The health board must therefore have robust procedures in place for correctly determining the tax employment status of all individuals providing services to it.

The Tax Status of Workers financial procedure describes key considerations and actions that must be taken by Hywel Dda University Health Board employees when entering the Health Board into contracts for the services of individuals, in order to ensure that payments for those services are made in compliance with tax regulations.

Evidence considered (including staff and population data, relevant research, expert and community knowledge etc.)

Standing Financial Instructions.
Other Financial Procedures.
[435 - All Wales NHS staff to Raise Concerns procedure](#)
[815 Counter Fraud, Bribery and Corruption Policy](#)

Assess which protected characteristics will potentially be affected by the proposal:

Group	Positive Impact	Negative Impact	No Impact
Age			✓

Is it likely to affect older and younger people in different ways or affect one age group and not another?			
Disability Those with a physical disability, learning disability, sensory loss or impairment, mental health conditions, long-term medical conditions such as diabetes			✓
Gender Reassignment Consider the potential impact on individuals who either: <ul style="list-style-type: none"> • Have undergone, intend to undergo or are currently undergoing gender reassignment. • Do not intend to undergo medical treatment but wish to live in a different gender from their gender at birth 			✓
Marriage / Civil Partnership This also covers those who are not married or in a civil partnership.			✓
Pregnancy and Maternity Maternity covers the period of 26 weeks after having a baby, whether or not they are on Maternity Leave			✓
Race / Ethnicity People of a different race, nationality, colour, culture or ethnic origin including non-English / Welsh speakers, gypsies/travellers, asylum seekers and migrant workers.			✓
Religion or Belief The term 'religion' includes a religious or philosophical belief.			✓
Sex Consider whether those affected are mostly male or female and where it applies to both equally does it affect one differently to the other?			✓
Sexual Orientation Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.			✓

Consider the potential impacts of the programme/policy/project on the following wider determinants:

Additional Determinants	Positive Impact	Negative Impact	No Impact
<p>Armed Forces Community Consider members of the Armed Forces and their families, whose health needs may be impacted long after they have left the Armed Forces and returned to civilian life. Also consider their unique experiences when accessing and using day-to-day public and private services compared to the general population. It could be through ‘unfamiliarity with civilian life, or frequent moves around the country and the subsequent difficulties in maintaining support networks, for example, members of the Armed Forces can find accessing such goods and services challenging.’</p> <p>For a comprehensive guide to the Armed Forces Covenant Duty and supporting resource please see: Armed-Forces-Covenant-duty-statutory-guidance</p>			✓
<p>Socio Economic Duty Consider those on low income, economically inactive, unemployed or unable to work due to ill-health. Also consider people living in areas known to exhibit poor economic and/or health indicators and individuals who are unable to access services and facilities. Food / fuel poverty and personal or household debt should also be considered.</p> <p>For a comprehensive guide to the Socio-Economic Duty in Wales and supporting resource please see: more-equal-wales-socio-economic-duty</p>			✓
<p>Welsh Language Please note opportunities for persons to use the Welsh language and treating the Welsh language no less favourably than the English language.</p>			✓

Summary of Potential Impacts Identified

Positive Impacts

None Identified

Negative Impacts

None identified in relation to the protected groups, if any arise then they will be addressed on a case-by-case basis and if required a full EqIA will be undertaken.

Has the screening identified any negative impacts?	Yes	No
If yes, a full Equality Impact Assessment will need to be undertaken.		

If No negative impacts were identified, please give full justification here

The procedural content of the Tax Status of Workers financial procedure is driven by Pay as You Earn (PAYE) regulations, Off-payroll working (IR35) legislation and associated published guidance from HMRC. Such legislation applies generally to engagements for the services of workers to the health board and applies irrespective of the protected characteristics listed above.

Some of the policy wording was changed to make it gender inclusive.

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	Date	24/01/2024
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	Date	7/2/2024