

## Follow Up Audit Objective

To provide assurance that management has implemented agreed actions to mitigate the risk exposures found in the 2023/24 Agency Staff and Consultants (IR35) audit.

### Follow Up Progress Summary

Priority	Complete	In Progress	Not Started	Not Agreed	Summary
Priority 1	4	0	0	0	4
Priority 2	2	0	0	0	2
Priority 3	1	0	0	0	1
<b>Total</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>7</b>

### Follow Up Assessment

We conducted an audit of agency staff and consultants (IR35) in 2023/24 to assess the effectiveness of the recruitment policies and procedures the council has in place to comply with the intermediaries legislation (IR35). We found 11 weaknesses and provided Limited assurance. During the subsequent action tracking process, officers requested that we amalgamate issues that had similar agreed actions. This resulted in the number of agreed actions reducing to 7. In this follow up review, we have concluded that all the agreed actions have been completed. Our key findings are summarised below.

### Key Findings



Since the original audit, the council has:

- Approved an updated version of the Temporary Workers Policy which clarifies responsibilities for determining employment status.
- Completed missing Check Employment Status for Tax (CEST) assessments.
- Created records of off-payroll workers.
- Communicated responsibilities relating to IR35 legislation to staff.
- Integrated IR35 into the Authority to Recruit form and process.
- Created an IR35 outcome notification letter template.

### Further Information

We have performed testing and reviewed supporting evidence to confirm the council's progress in implementing all priority 1 and 2 actions. Our assessment of the priority 3 actions is based on self-assessment by the responsible officer.

Please refer to Appendix 1 for our detailed findings.

## Appendix 1

## Agreed Actions & Follow Up Assessment

Issue and Agreed Action	Follow Up Assessment	Complete
<p><b>Issue:</b> The policy for hiring temporary support does not explicitly state who is responsible for determining their employment status.</p> <p><b>Agreed Action:</b> The policies and procedures will be updated to include the areas reported.</p>	<p>The Council's Personnel Committee has approved an updated Use of Temporary Workers Policy.</p> <p>The new Policy:</p> <ul style="list-style-type: none"> <li>• Confirms that recruiting managers are responsible for complying with the policy, the council's standing orders and procurement rules, and IR35, and that HR will provide advice but are not responsible for compliance.</li> <li>• Confirms all interims and consultants must be subject to an IR35 assessment to determine their employment status and how fees and charges will be paid before the engagement starts.</li> <li>• Confirms the manager must have a valid authority to recruit form and allow sufficient time to complete all "checks and requirements" before the engagement starts. Also confirms HR will not process requests without appropriate approvals and documentation.</li> <li>• Confirms the council will only engage temporary workers residing in the UK.</li> <li>• Confirms the recruiting manager is responsible for confirming the type of temporary worker being engaged and must not offer work until they are aware of the outcome of the IR35 assessment and how the council will have to treat payments.</li> <li>• Confirms that if the temporary worker is employed by an agency, the agency is responsible for employment and other checks, but the recruiting manager must confirm this is the case.</li> <li>• States the recruiting manager must complete the assessment, sent a copy to Payroll and retain a copy of the assessment locally, and communicate the result to the worker using a template from the intranet.</li> <li>• Confirms the recruiting manager must obtain the necessary personal, company and tax information needed to deduct tax/NICs from the worker's invoice.</li> <li>• Explains that invoices should be sent to Payroll if the worker will be subject to deductions via the payroll system, and if not, invoices will be processed via the Income and Payments service.</li> <li>• Appendix Two includes a link to the HMRC CEST tool.</li> </ul> <p>This action is complete.</p>	
<p><b>Priority</b></p>	<p><b>1</b></p>	<p>SWAP Ref: AP#2062</p>

Issue and Agreed Action	Follow Up Assessment	Complete
<p><b>Issue:</b> The latest contract could not be found for a consultant. A Check Employment Status for Tax (CEST) assessment could not be located for another consultant.</p> <p><b>Agreed Action:</b> A copy of the contract for the Communications Consultant will be obtained from the consultant. Where there isn't one for this current project, one will be created retrospectively.</p> <p>A CEST Assessment will be undertaken for the Relocation Manager, and a new contract will be drawn up, reflecting the work currently being undertaken.</p>	<p>We confirmed that the Communications Consultant was subsequently employed in a permanent role but has now left the council. Therefore, the agreed action to obtain a copy of their contract is no longer required. During this follow-up review we requested and were able to obtain contracts for a sample of consultants.</p> <p>The Council provided the original CEST assessment for the Relocation Manager. The assessment is dated March 2017 and confirms the individual is self-employed for tax purposes. A new CEST assessment for this consultant was completed in 2025, and this shows the same result as the 2017 assessment.</p> <p>However, during our separate Contract Management audit, we found several weaknesses relating to Relocation Manager's contract, including apparent variations with no documented agreement. Officers have agreed to review and update this contract. This may necessitate a further CEST assessment.</p> <p>As a CEST assessment has been completed for the Relocation Manager we consider this action to be complete.</p>	
<p><b>Priority</b></p>	<p>1</p>	<p>SWAP Ref: AP#2423 &amp; AP#2424</p>
<p><b>Issue:</b> Employment Status Assessment records are not complete.</p> <p><b>Agreed Action:</b> Following the revision of the IR35 guidance, training will be given to all hiring managers so that they are aware of their responsibilities when recruiting off-payroll workers, including Employment Status Assessment (ESA) and the requirement to carry out another ESA where the terms of engagement change, or the worker is rehired under a new contract.</p> <p>The training will include communications via the 'News and Views' manager briefings (this is linked to action AP#2185).</p>	<p>The officer who agreed the original action left the council before this follow up review started. Their replacement told us that rather than implement additional training for managers, the following compensating controls have been put in place:</p> <ul style="list-style-type: none"> <li>• The updated Use of Temporary Workers Policy confirms managers can seek advice from HR Business Partners or Payroll, and that recruiting managers are responsible for complying with the Policy and for providing completed assessments to Payroll.</li> <li>• The updated Use of Temporary Workers Policy states all interims, consultants and agency employees must have CEST assessments before starting work.</li> <li>• The council's Authority to Recruit (ATR) process also applies to temporary workers and consultants, so the need for CEST assessments can be flagged at this stage. The Corporate Lead HR is part of the ATR approval process and can therefore flag requests likely to need assessments.</li> <li>• The ATR form includes a prompt to complete an IR35 assessment.</li> <li>• Communications highlighting the new Policy were included in the staff newsletter sent to all staff.</li> </ul> <p>We saw evidence that the above action has been taken. During our testing we found the ATR and assessment process was generally being followed, but there was one instance where a consulting engagement was extended without a new ATR. However, overall, we are satisfied the action is complete.</p>	
<p><b>Priority</b></p>	<p>1</p>	<p>SWAP Ref: AP#2413 &amp; AP#2185</p>

Issue and Agreed Action	Follow Up Assessment	Complete
<p><b>Issue:</b> The council does not have a definitive list of all its off-payroll workers.</p> <p><b>Agreed Action:</b> To use the latest expenditure on consultants and agency staff report and undertake a review of the financial system to identify both agency workers and consultants currently employed off payroll by the council.</p> <p>Finance to provide a quarterly report of payments to consultants to enable a cross check to HR records and identify where discrepancies are and enable follow up. We will investigate, with Finance, how the identity of the consultant can be established within expenditure reports to support this cross check.</p> <p>To also liaise with service managers to establish the names of any consultants and agency workers working within their services, along with their job title, in order to create a definitive list of off-payroll workers and ensure this is maintained up to date.</p> <p>Where this exercise identifies that an employment status assessment has not been undertaken, or where one has not been undertaken for several years, managers will be required to complete a revised assessment and share a copy of the results with HR for their records.</p> <p>All Assistant Directors will be contacted to ascertain any previously unidentified off-payroll workers. Where an employment status assessment has not been undertaken, or where one has not been undertaken for several years, they will be required to complete a revised assessment and share a copy of the results with HR for their records.</p>	<p>The HR team has created a specific reporting unit for agency workers on the HR and payroll system, iTrent. This gives HR oversight of all known agency workers.</p> <p>In 2025 Finance and Payroll officers completed an exercise to identify known off-payroll workers, including consultants, as part of a financial presentation for the Executive Leadership Team. The resulting spreadsheet detailed the identified agency workers and consultants, and the costs associated with each role.</p> <p>In this follow up audit, we requested and obtained valid CEST assessments for all known consultants, all of which confirmed they were not employees for tax purposes.</p> <p>While we are satisfied that lists now exist, we have suggested that HR create additional reporting units on iTrent to capture other types of off-payroll worker that are recorded on iTrent (e.g. self-employed, employee for tax purposes), as this would facilitate improved oversight.</p> <p>This action is complete.</p>	
<p><b>Priority</b></p>	<p>1</p>	<p>SWAP Ref: AP#2174 &amp; AP#2338 &amp; AP#2414</p>

Issue and Agreed Action		Follow Up Assessment	Complete
<p><b>Issue:</b> Managers have not received any specific training in relation to the IR35 legislation. There is no separate corporate induction checklist for senior managers.</p> <p><b>Agreed Action:</b> The corporate induction and mandatory training requirements for managers will be reviewed to ensure managers are aware of their requirement to comply with the intermediary's legislation when recruiting off-payroll workers.</p>		<p>As per AP#2413 &amp; AP#2185, the Council has not pursued additional training for managers but has implemented compensating controls including updated guidance and updates to the ATR process.</p> <p>The Council provided evidence of communications to HR Business Partners and the relevant News &amp; Views post which confirmed the updated guidance has been communicated to managers.</p> <p>This action is complete.</p>	
<b>Priority</b>	2	SWAP Ref: AP#2186 & AP#2185	
Issue and Agreed Action		Follow Up Assessment	Complete
<p><b>Issue:</b> Notification of Outcome of Employment Status Assessment to the Off-Payroll Worker.</p> <p><b>Agreed Action:</b> Examples of notification letters will be included as part of the policy refresh. Recruiting managers will be responsible for ensuring a letter is produced, sent to the off-payroll worker with a copy sent to HR for their records.</p>		<p>The Council has established new letter templates, and these are published on the Council's Intranet.</p> <p>This action is complete.</p>	
<b>Priority</b>	2	SWAP Ref: AP#2416	
Issue and Agreed Action		Follow Up Assessment	Complete
<p><b>Issue:</b> Authority to Recruit Form (ATR) not always completed.</p> <p><b>Agreed Action:</b> The Authority to Recruit form and the related process have been reviewed to include a reminder to hiring managers of their responsibilities in relation to IR35 when recruiting off-payroll workers.</p>		<p>The Council has updated the ATR form. An example of the email sent by HR was provided, which includes a prompt to ensure the relevant checks are undertaken.</p> <p>This action is complete.</p>	
<b>Priority</b>	3	SWAP Ref: AP#2173	