



South East Coast Ambulance Service NHS
Foundation Trust
Nexus House
Gatwick Road
Crawley
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Date 22nd January 2019

Email:

Email:foi@secamb.nhs.uk

Dear,

I am writing in response to your enquiry under the Freedom of Information Act 2000 (FOIA) reference FOI/19/01/30.

You requested the following information, please also see our response below:

The Off-payroll legislation was introduced in Chapter 10 of the Income Tax (Earnings and Pensions) Act 2003, with the new legislation going live from April 6th 2017. This new legislation overrode, in the public sector, the existing Intermediaries Legislation (Chapter 8, ITEPA).

The new legislation is here:

<https://www.legislation.gov.uk/ukpga/2017/10/schedule/1/part/2>

One of the key differences between the chapter 8 and chapter 10 is that the public authority is required to decide whether the off-payroll working rules (Chapter 10) apply based on whether the conditions have been met in section 61M(1)(d).

61M Engagements to which Chapter applies

(1) Sections 61N to 61R apply where—

(a) an individual (“the worker”) personally performs, or is under an obligation personally to perform, services for another person (“the client”), (b) the client is a public authority, (c) the services are provided not under a contract directly between the client and the worker but under arrangements involving a third party (“the intermediary”), and (d) the circumstances are such that— (i) 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, or (ii) the worker is an office-holder who holds that office under the client and the services relate to the office.

This requires the public authority to test whether the worker would be considered an employee based on employment status case law.

These assessments would have been completed by you with each assessment receiving its own determination.

Please can you provide:

A monthly breakdown, from April 2017 onwards of the number of assessments conducted by you, together with the number of assessments that are considered to be “inside IR35” (i.e. 61M(1)(d) applies) and the number that are “outside IR35” (i.e. 61M(1)(d) does not apply)

All interim workers are assessed at inception for the applicability of the off-payroll working rules. The majority of the workers are deemed to be inside IR35 and will be either

- i) issued with a Fixed Term Contract of Employment and paid via the Trust Payroll
- ii) paid via the Bank Payroll or
- iii) paid by recruitment agencies as agency workers.

Workers deemed to be outside IR35 are required to submit a copy of the HMRC On-line Tax Status Questionnaire. All responses to the Questionnaire are checked for accuracy by the Trust. The following analyses the relevant numbers of interim workers between those inside and those outside IR35 since April 2017:

Month	Total Inside IR35	Total Outside IR35
Apr-17	18	0
May-17	26	0
Jun-17	22	*Less than 10
Jul-17	34	0
Aug-17	22	0
Sep-17	15	*Less than 10
Oct-17	28	*Less than 10
Nov-17	34	0
Dec-17	44	0
Jan-18	37	*Less than 10
Feb-18	41	0
Mar-18	34	0
Apr-18	34	0
May-18	24	*Less than 10
Jun-18	24	0
Jul-18	19	0
Aug-18	19	*Less than 10
Sep-18	21	0
Oct-18	31	*Less than 10
Nov-18	34	0
Dec-18	16	0

*As this figure is less than 10 we are unable to provide the exact number as it may be identifiable to individuals

I hope you find this information of some assistance.

If for any reason you are dissatisfied with our response, kindly in the first instance contact Caroline Smart, Head of Information Governance via the following email address:

FOI@secamb.nhs.uk

Yours sincerely

Freedom of Information Coordinator
South East Coast Ambulance Service NHS Foundation Trust