

## IR35 'Off Payroll' working - Status Determination Disagreement Process

The off payroll working regulations (commonly known as IR35 rules) require hirers to have a status determination disagreement process; and whenever contractors are assessed both a copy of their Status Determination along with confirmation that they have a right to dispute should they disagree; is provided to the contractor and agency (where applicable).

### 1.0 Statement

- 1.1 This disputes process intends to deal with complaints from individuals, and/or their agency, who disagree with the decision that their engagement falls within IR35. The handling of the disputes will be managed in line with the appropriate regulations.
- 1.2 HMRC consider the accurate outputs from the enhanced version of its CEST (Check Employment Status for Tax) tool for checking employment status decisions, meet the legislative requirements to be a valid Status Determination Statement (SDS). HDC will use the HMRC CEST tool as part of its consideration of SDS disputes.
- 1.2 Contractors or the agency have a right to make representations if they believe the status determination was incorrect, or if they believe the contractual terms and/or working practices have changed over time. Complaints can be received verbally or in writing, but these complaints should be addressed to [Humanresources@huntingdonshire.gov.uk](mailto:Humanresources@huntingdonshire.gov.uk) and should contain the reasons why they disagree, to fully consider the representations.
- 1.3 Representations can be made at any time. However, HDC will only consider and respond to representations made before the final chain payment is made in relation to that engagement.
- 1.4 The dispute will be reviewed by the HR team or appropriate representative and a response in writing will be sent within 45 days of receipt of status determination (SD) disagreement, informing the contractor or the agency of the outcome of its considerations.
  - 1.4.1 If it is concluded that the original determination was correct, reasons why it believes the original determination was correct will be provided.
  - 1.4.2 If on review it is concluded that the original determination was incorrect, a revised status determination statement will be issued, with the date this new SD became applicable and state that the previous SD is withdrawn.
- 1.6 The outcome of the status determination process is final.

Date Reviewed	September 2021
Owner	Human Resources

## **Template Letter: Outcome to Status Determination Disagreement Upheld Disagreement**

Dear [ ]

### **Your appeal against status determination for IR35 purposes**

I refer to your appeal against our determination of your status for the purposes of [your ongoing role as [details of individual's role] / the project you are working on for us from [date] until [date] ].

In our original status determination of [date], we assessed that, for tax purposes, your engagement with us falls "inside IR35". In other words, we decided that you would have employee status if engaged directly by Huntingdonshire District Council, meaning that we would be responsible for deducting tax and national insurance contributions (NICs) from payments we make to you and paying these deductions to HM Revenue & Customs (HMRC).

### **Decision to uphold your appeal**

We have considered your representations and reached an alternative determination using HMRC's online CEST tool at [www.gov.uk/guidance/check-employment-status-for-tax](http://www.gov.uk/guidance/check-employment-status-for-tax).

We have now reassessed that, for tax purposes, your engagement with us falls "outside IR35". In other words, we have decided that you are in fact an independent, self-employed contractor and we will pay your fees in full, without deducting tax and national insurance contributions (NICs) from payments made to you.

In particular, please note the following results from this alternative determination:

- [Set out here any particular outcomes that you would like to highlight or that would help to explain the new results to the individual. See [Notes](#) for examples of some of the issues that CEST may have identified.]

A copy of the report that we generated on [date] via the CEST tool is attached for your records. HMRC has said that it "will stand by this result as long as it reflects the actual or expected working practices".

### **Queries or concerns**

If you have any queries or concerns, please do not hesitate to contact [me/name of individual/the HR department].

Yours sincerely

[ ]

## **Template Letter: Outcome to Status Determination Disagreement NOT Upheld Disagreement**

Dear [ ]

### **Your appeal against status determination for IR35 purposes**

I refer to your appeal against our determination of your status for the purposes of [your ongoing role as [details of individual's role] / the project you are working on for us from [date] until [date] ].

In our original status determination of [date], we assessed that, for tax purposes, your engagement with us falls "inside IR35".

### **Decision to reject your appeal**

We have considered your representations and can confirm that due care has informed our decision alongside a completion of the CEST determination, and we have reached the same determination using HM Revenue & Customs' (HMRC's) online CEST tool at [www.gov.uk/guidance/check-employment-status-for-tax](http://www.gov.uk/guidance/check-employment-status-for-tax).

We maintain our assessment that, for tax purposes, your engagement with us falls "inside IR35". In other words, we maintain that you would have employee status if engaged directly by us, meaning that we are responsible for deducting tax and national insurance contributions (NICs) from payments we make to you and paying these deductions to HM Revenue & Customs (HMRC).

In particular, please note the following results from this redetermination:

- [Set out here any particular outcomes that you would like to highlight or that would help to explain the results to the individual. See [Notes](#) for examples of some of the issues that CEST may have identified.]

A copy of the report that we generated on [date] via the CEST tool is attached for your records. HMRC has said that it "will stand by this result as long as it reflects the actual or expected working practices".

### **Queries or concerns**

If you have any queries or concerns, please do not hesitate to contact [me/name of individual/the HR department].

Yours sincerely

[ ]