

Blanket bans vs. blanket assessments

Blanket bans.

Since off-payroll was implemented, many clients have imposed blanket bans on contractors, taking a risk-averse 'no PSC' approach. It is certainly their prerogative to make this decision as a business, and there would be no requirement to engage with the off-payroll rules. This approach has created a talent shortage for these clients and/or increased cost for the additional tax required to engage only inside IR35 contractors.

Still, many large clients deem this the safest option, while smaller companies appear more willing to take a more pragmatic, tailored approach to engaging contractors. As the skill shortage gets worse and larger clients become more comfortable with off-payroll, they too may take a more pragmatic approach and reverse blanket bans.

Blanket assessments.

In contrast to an outright blanket ban, role-based blanket IR35 assessments are actually unlawful and risky, for three primary reasons:

- They don't constitute reasonable care – they breach a requirement of the legislation section 61T(6)(c), resulting in the tax risk passing back up to the hirer from the agency (fee-payer).
- Insurance underwriters will not cover the tax risk unless an individual assessment has been conducted, and agencies do not wish to take on uninsured risk.
- If investigated by HMRC, an inadequate role-based blanket assessment could trigger an extension of the enquiry window to six years due to carelessness under Section S36(1) TMA 1970. If the error was found to be deliberate this could extend to 20 years (S36(1A)).