

Checked by	Jill Reed
End client's name	University of Birmingham
Engagement job title	Consultancy services re: Finance
Reference	The Workers Name Here

## The intermediaries legislation doesn't apply to this engagement

### Why are you getting this result

You've told us that the worker's business could arrange and pay for a substitute to work on this engagement, and that the end client would accept it. This suggests that the end client is engaging the worker on a business to business basis, rather than on a personal service basis.



If HMRC investigate this engagement, the end client will need to confirm that they would accept substitution. They may also be asked to demonstrate that they have accepted substitution during this, or a similar engagement.

It is important to demonstrate that it is the worker's business that will pay, and provide the substitute, not the agency, and not the end client

### About the people involved

- **Which of these describes you best?**

The end client is the public body, corporation or business that the worker is providing services to.

The end client

- **Has the worker already started this particular engagement for the end client?**

No

- **How does the worker provide their services to the end client?**

As a limited company

## About the worker's duties

Workers that perform office holder duties for the end client are classed as employed for tax purposes. You've told us that the worker will not perform office holder duties during this engagement.

- **Will the worker (or their business) perform office holder duties for the end client as part of this engagement?**

Being an office holder isn't about the physical place where the work is done, it's about the worker's responsibilities within the organisation. Office holders can be appointed on a permanent or temporary basis.

This engagement will include performing office holder duties for the end client, if:

- the worker has a position of responsibility for the end client, including board membership or statutory board membership, or being appointed as a treasurer, trustee, company director, company secretary, or other similar statutory roles
- the role is created by statute, articles of association, trust deed or from documents that establish an organisation (a director or company secretary, for example)
- the role exists even if someone isn't engaged to fill it (a club treasurer, for example)

If you're not sure if these things apply, please ask the end client's management about their organisational structure.

No

## About substitutes and helpers

We ask these questions to find out if the worker is being engaged as a business or on a personal service basis. If the end client hasn't or wouldn't agree to the worker's business arranging for a paid substitute to work instead of them, it suggests that they're being engaged on a personal service basis.

- **If the worker's business sent someone else to do the work (a substitute) and they met all the necessary criteria, would the end client ever reject them?**

The criteria would include:

- being equally skilled, qualified, security cleared and able to perform the worker's duties
- not being interviewed by the end client before they start (except for verification)

checks)

- not being from a pool or bank of workers regularly engaged by the end client
- doing all of the worker's tasks for that period of time
- being substituted because the worker is unwilling or unable to do the work

We need to know what would happen in practice, not just what it says in the worker's contract.

No - the end client would always accept a substitute who met these criteria

- **Would the worker's business have to pay the person who did the work instead of them?**



If the substitute would be paid by an agency, it won't count as substitution.

Yes

## You should now do the following:

If you're the worker your business should be paid a gross amount and follow this guidance (<https://www.gov.uk/browse/business/business-tax>) about your taxes.

If you're the fee payer you can pay the worker's business a gross amount without deducting tax or National Insurance.

## About this result

The intermediaries legislation will apply to this engagement where the worker's business (the intermediary) satisfies these specific conditions of liability (<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm3100>).

HMRC will stand by the result given unless a compliance check finds the information provided isn't accurate.

HMRC won't stand by results achieved through contrived arrangements designed to get a particular outcome from the service. This would be treated as evidence of deliberate non-compliance with associated higher penalties.

HMRC can review your taxes for up to 20 years.



HMRC won't keep a record of this result.

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