

Rules of Engagement for Payroll and Outside IR35 Consultancy

The following pre prepared easy to follow guides are written with the assumption of an underlining Contract being placed with a “Service Provider” that has contractual deliverables, obligations and responsibilities within the agreed Contract between the parties.

All Contract will be different and therefore these rules may well change dependent on the engagement and the Contract conditions between the parties. These rules may also change based on differing opinion of the Off Payroll Working Regulations, and therefore you may require further legal support to interpret the full understanding of the regulations and how to apply them in your organisation.

Contact JAG Procurement Limited for further assistance.

Rules of Engagement - Can Resources be put on any task we wish?

Question by Clients People	Outsourced "Teams" Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
1	<p>No.</p> <p>The Contract and the Deliverables within it should be clear what the Service Provider is to do and what the output looks like.</p> <p>But can be amended with mutule agreement and consideration by both parties using change control.</p>	<p>Yes, within reason, but you can not ask them to do something that isn't in their skill set "be a fighter pilot for example", it should be safe and should be achievable.</p>	<p>Yes,</p> <p>but only with mutule agreement of the Service Provider.</p> <p>Same provisions are inside IR35 but formal communications in writing should be in place and the statement of works amended to suit the agreement using a change control process</p>

Rules of Engagement - Can we specify where the services are carried out?

Question by Clients People	Outsourced "Teams" Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
2	<p>The statement of works should ask for you to clearly say where and how the services are performed, including UK, near shore and offshore etc.</p> <p>If you change the scope the supplier may charge more.</p>	<p>Yes, within reason and this should be made clear in the statement of works and any contract</p>	<p>There are 2 answers</p> <ol style="list-style-type: none"> 1. Only if that is how you have answered the CEST Questionnaire or another tool. 2. If you had said in the CEST that they can determine where they work, you should formally agree this change in the statement of works and the Service provider may charge for this. <p>It is reasonable under say security grounds to also say that it <u>must</u> be within UK Shores etc..</p>

Rules of Engagement - Can we specify Processes and Procedures?

Question by Clients People	Outsourced "Teams" Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
3	Yes, if for example public systems and under "security grounds" you need to have control of software, systems and methods / approach to ensure that public finances & security are fully protected in the final solutions. Also, the requirements of the services can specify things such as Cyber security requirements and other things such as data being on UK servers.	Same Answer	Same answer that Public Funds Security is essential and therefore making sure that the processes and procedures are all carried out in a safe and secure environment are essential to protect public funding and the millions of £'s the system may transact, public data etc...

Rules of Engagement – Why do we pay for Contractors mistakes and noncompliance to the SoW?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
4	<p>You should NOT!</p> <p>The Service Provider is responsible for putting right defective or non complaint work at their own cost not ours.</p> <p>As the “Authorities Representative” you should record this and instruct the Service Provider to put the defects right at their costs and time.</p>	<p>Because these category of people are treated in the same way as staff in this regard</p>	<p>You should NOT!</p> <p>The Service Provider is responsible for putting right defective or non complaint work at their own cost not ours.</p> <p>As the “Authorities Representative” you should record this and instruct the Service Provider to put the defects right at their costs and time.</p>

Rules of Engagement – If the resources are just the wrong people can we request a change?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
5	<p>Absolutely and you should.</p> <p>Sometimes this is just a cultural fit issue, and other times it is a performance issue or behavior problem. A professional service is still required.</p> <p>The Service Provider is obligated to find an alternative.</p> <p>But it should be for the same quality of person in skills, experience etc.</p>	<p>The Services Provider should have responsibility of replacing the resource if required.</p> <p>This save you having to go out again and places the reasonability on the Service Provider.</p> <p>But it should be for the same quality of person in skills, experience etc.</p>	<p>Absolutely and you should.</p> <p>Sometimes this is just a cultural fit issue etc., and other times it is a performance issue.</p> <p>The Service Provider is obligated to find an alternative.</p> <p>But it should be for the same quality of person in skills, experience etc.</p>

Rules of Engagement – Can we specify when the resource can take leave?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
6	<p>No.</p> <p>The Service Provider is responsible for providing the output obligations and services, if one of their resources is away and you need a replacement, they are obligated to provide that resource, but when they take leave is not your concern.</p> <p>Consultants SHOULD NOT complete holiday forms.</p>	<p>Yes, within reason and being reasonable</p>	<p>No.</p> <p>The Service Provider is responsible for providing the output services, if one of their resources is away and you need a replacement, they are obligated to provide that resource, but when they take leave is not your concern.</p> <p>Consultants MUST NOT complete holiday forms.</p>

Rules of Engagement – Can we Supply Training to the resources?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
7	<p>Yes but Limited</p> <p>Only project specific training on a system that has been specially configured for the Authority and required for the Services can be provided. Specific Security Training can be provided as example</p> <p>Health and Safety Inductions and Tool Box Talks can be included</p> <p>No Development of a resource must take place</p>	<p>Yes</p> <p>Treated no differently to permanent staff</p>	<p>Yes Limited</p> <p>Only project specific training on a system that has been specially configured for the Authority can be provided. Specific Security Training can be provided as example</p> <p>Health and Safety Inductions and Tool Box Talks can be included</p> <p>No Development</p>

Rules of Engagement – how do we deal with poor performance?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
<p>8</p> <p>*as defined in the Contract</p>	<p>“Performance*” can be, not hitting deliverables, milestones or cultural fit.</p> <p>A discussion should be had with the Service Provider about the resource(s) that are under performing. Factual examples should be used and documented. A period for corrective action agreed or a substitution can be requested or increase in resources, as necessary.</p>	<p>Treated no differently to perm staff.</p> <p>If performance issues continues, then the Service Provider should be informed to remove the individual and replace them.</p>	<p>“Performance” can be, not hitting deliverables, milestones or cultural fit. A discussion should be had with the Service Provider about the resource(s) that are under performing. Factual examples should be used and documented. A period for corrective action agreed or a substitution can be requested or increase in resources, as necessary.</p>

Rules of Engagement – what happens if someone is sick?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
9	<p>The Service Provider has an obligation to replace the person if they deem necessary or if you request that. The Service Provider is not let off the hook for sickness in their team, they still need to hit the programme and milestones in the Contract or subsequently agreed with the Service Provider.</p>	<p>Treated no differently to perm staff.</p> <p>But should the sickness continue, you can request a substitution from the Service Provider.</p>	<p>The Service Provider has an obligation to replace the person if they deem necessary or if you request that. The Service Provider is not let off the hook for sickness in their team, they still need to hit the programme and milestones in the Contract or subsequently agreed with the Service Provider.</p>

Rules of Engagement – can the resources work where we want?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
10	<p>The Service Provider may have an obligation ensure that each resource is available to come to an Office as specified within the statement of works, such as a SPRINT on an IT Project. There could also be Safety reasons why they are required to attend a certain location or Security Reasons particularly when working in Public Sector.</p>	<p>Treated no differently to perm staff.</p>	<p>The Service Provider may have an obligation ensure that each resource is available to come to an Office as specified within the statement of works, such as a SPRINT on an IT Project. There could also be Safety reasons why they are required to attend a certain location or Security Reasons particularly when working in Public Sector.</p>

Rules of Engagement – should the resources attend departmental meetings (Not Sprints)

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
11	<p>No resources from the teams should be invited to any departmental meetings.</p> <p>You should provide Service Provider updates on meetings on areas that the Service Provider needs to know and understand such as timelines, safety, environment, but certainly resources should not be invited or required attend departmental meetings.</p>	Treated no differently to perm staff.	<p>No resources from the teams should be invited to any departmental meetings.</p> <p>You should provide Service Provider updates on meetings on areas that the Service Provider needs to know and understand such as timelines, safety, environment, but certainly resources should not be invited or required attend departmental meetings</p>

Rules of Engagement – Can we interview the resources?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
12	<p>No, the resources are evaluated and not interviewed. This is because the resources are part of a competition process and not for employment.</p> <p>All resources are scored in the competition process, and should they be substituted by The Service Provider, then the Provider should offer resources of the same or greater score that was first evaluated.</p>	<p>No, the resources are evaluated and not interviewed. This is because the resources are part of a competition and not for employment.</p> <p>All resources are scored in the competition, and should they be substituted by The Service Provider, then the Provider should offer resources of the same or greater score that was first evaluated.</p>	<p>No, the resources are evaluated and not interviewed. This is because the resources are part of a competition process and not for employment.</p> <p>All resources are scored in the competition process, and should they be substituted by The Service Provider, then the Provider should offer resources of the same or greater score that was first evaluated.</p>

Rules of Engagement – Should I carry out staff / resource performance reviews ?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
13	<p>No never.</p> <p>The Contract deliverables and outputs should be measured to ensure compliance with the contract.</p>	<p>If agreed between the parties yes, and this can be used as a contractual reason for substitution if required.</p>	<p>No never.</p> <p>The Contract deliverables and outputs should be measured to ensure compliance with the contract.</p>

Rules of Engagement – How do I change the suppliers' deliverables, milestones or outputs

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
14	There should be an official Change Control form that should be used and sent to The Service Provider for formal acceptance by them, and to allow them to make alternative proposals if they wish.	These can be altered at any time, with a formal communication with the individual.	There should be an official Change Control form that should be used and sent to The Service Provider for formal acceptance by them, and to allow them to make alternative proposals if they wish.

Rules of Engagement – How should I obtain the resources we require?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
15	<p>At JAG we believe the best method of obtaining Teams of resources is through a Procurement competition, where the Authority (the client) issues a full Statement of Works (SoW) that details the requirements, obligations and outputs required. This competition is not interview based but based on a tender submission from the suppliers and weighted for Commercial and Quality to obtain the most economical and advantageous tender (MEAT)</p>	<p>At JAG we believe the best method of obtaining Teams of resources is through a Procurement competition, where the Authority (the client) issues a full Statement of Works (SoW) that details the requirements, obligations and outputs required. This competition is not interview based but based on a tender submission from the suppliers and weighted for Commercial and Quality to obtain the most economical and advantageous tender (MEAT)</p>	<p>At JAG we believe the best method of obtaining Teams of resources is through a Procurement competition, where the Authority (the client) issues a full Statement of Works (SoW) that details the requirements, obligations and outputs required. This competition is not interview based but based on a tender submission from the suppliers and weighted for Commercial and Quality to obtain the most economical and advantageous tender (MEAT)</p>

Rules of Engagement – Who do we get a substitute?

Question by Clients People	Outsourced “Teams” Scope	Individuals Outsourced – On Payroll	Individuals Outsourced - Outside IR35
16	If you believe that one or more of the Service Provider resources are not performing as the Statement of Works requires, you can discuss with the Service Provider and if the issue can not be resolved request a Substitute	At JAG we believe the best method of obtaining Teams of resources is through a Procurement competition, where the Authority (the client) issues a full Statement of Works (SoW) that details the requirements, obligations and outputs required. This competition is not interview based but based on a tender submission from the suppliers and weighted for Commercial and Quality to obtain the most economical and advantageous tender (MEAT)	At JAG we believe the best method of obtaining Teams of resources is through a Procurement competition, where the Authority (the client) issues a full Statement of Works (SoW) that details the requirements, obligations and outputs required. This competition is not interview based but based on a tender submission from the suppliers and weighted for Commercial and Quality to obtain the most economical and advantageous tender (MEAT)