



KPMG Off-Payroll Management (“OPM”) Solution

Managing compliance for off-payroll workers

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Is your organisation ready for the April 2021 changes?

The new off-payroll working rules were due to come into effect on 6 April 2020 but were postponed until 6 April 2021 because of the COVID-19 pandemic.

The rules affect engagements of individuals (or contractors) who provide their services through their own intermediary, often called a personal service company (PSC).

The responsibility for assessing the employment status of the contractor will lie with the end client to whom the contractor provides services and it is this assessment that will determine whether PAYE and NIC is due on payments to the contractor. If the end client does not exercise reasonable care in assessing employment status, any underpaid PAYE and NIC may become the end client's responsibility.

What are the challenges?

Whatever approach organisations are taking towards the engagement of contingent labour, there are a number of challenges to consider including:

- determine and agree the appropriate contingent labour engagement model for the business
- identifying contractor populations likely to be impacted and managing the cost and retention impact where the new rules apply;
- undertaking employment status checks (or revisiting those already undertaken) which are often notoriously complex due to the nature of the engagement and application of case law;
- ensuring disputes to employment status are managed effectively and responded to within the statutory time limits;
- managing the overall scale of the project and upskilling resource for transition to business as usual.

The Government will introduce changes to the current IR35 rules from April 2021 in order to bridge their estimated tax gap of £1.3 billion a year by 2023/24.

In order to comply with the new rules where contractors will still be engaged, organisations will be required to introduce appropriate processes and controls in order to:



Identify both current and future contractor populations that are likely to be impacted by the new rules



Design and implement a process for determining each contractor's employment status



Provide the appropriate Status Determination Statement to the contractor and the next party in the supply chain, where relevant



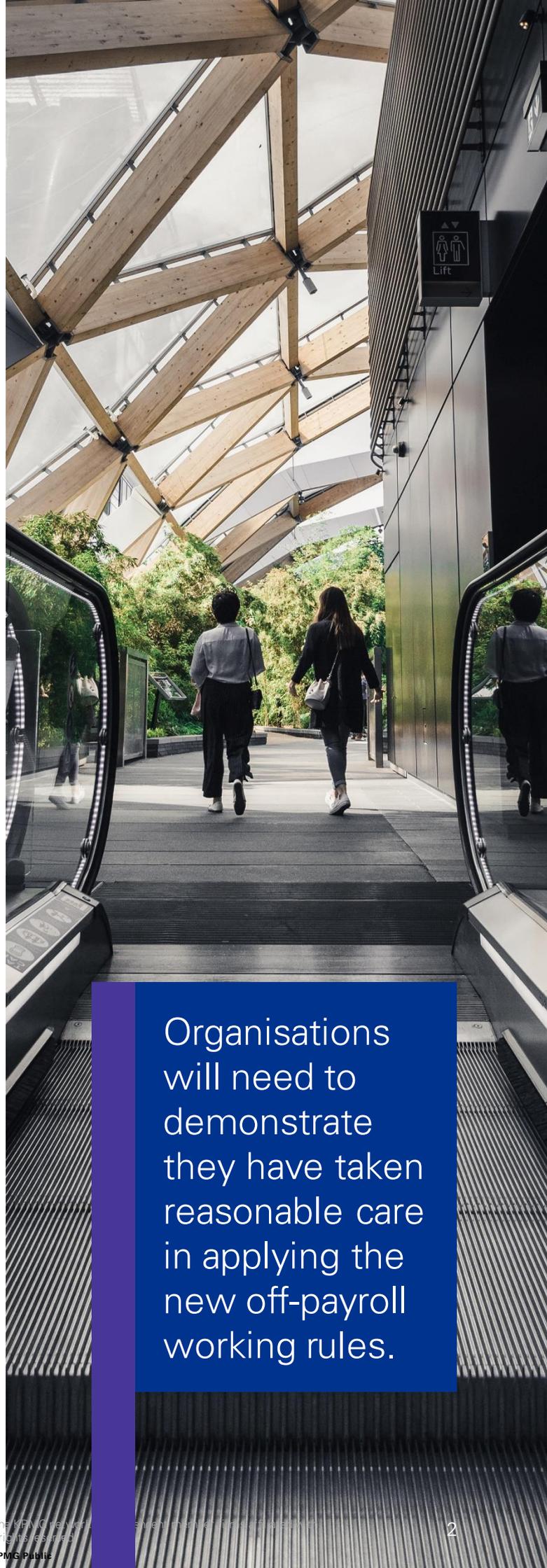
Implement a process for resolving employment status disputes that responds to challenges within the 45 day time limit



Demonstrate that reasonable care has been taken in the process for Senior Accounting Officer purposes and for presentation to HMRC in response to any challenge or review

With complex labour supply chains and continued reliance on contingent labour, effectively managing the impact of the new compliance obligations is proving extremely challenging.

Organisations will need to demonstrate they have taken reasonable care in applying the new off-payroll working rules.



At KPMG, we understand the complexities and challenges organisations face and have developed a suite of technology solutions to support compliance with the new off-payroll working rules.





KPMG has supported some of the UK's largest companies in resolving employment status disputes and have applied this experience in developing our off-payroll Management ('OPM') Solution

01

OPM – Portal

The portal landing page will be tailored to your requirements and will provide a central location for access to, for example, other OPM modules, 3rd party sites and applications, contractor data, management information, as well as other key documentation relevant to your organisation's contractor population such as training materials, template contracts and policy guides.

02

OPM – Identification

Our powerful data analytics tool is configured to interrogate supplier details to support in the identification of current contractor engagements likely to be impacted by the new rules. OPM Identification provides a risk based categorisation for each supplier based on the likelihood of them being impacted by the new rules.

The tool can also model the cost impact of engagements within the new rules to aid decision making and consideration of future engagement models.

03

OPM – Assessment and Workflow

The OPM tool allows organisations to assess employment status using KPMG's bespoke questionnaire which takes into consideration HMRC guidance and practice, as well as each organisation's contractual terms and conditions and working practices in order to arrive at a robust decision.

OPM provides a documented audit trail and communication portal to demonstrate that reasonable care has been taken. This includes issuing status decisions and resolving disputes.

01

KPMG OPM - Portal

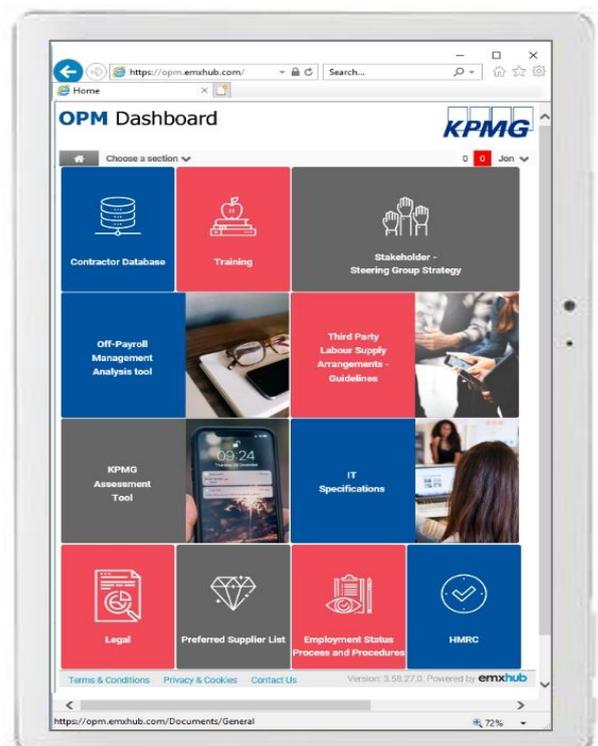
OPM – Portal is a bespoke and flexible platform to store information and provide access to other OPM modules

The portal will be customised according to your needs and will be branded to look and feel like your other internal systems.

OPM Portal can house all key documentation for the management of off-payroll workers including internal policies, processes and procedures, access to legal contracts and templates, preferred supplier details, contractor data and training materials/videos.

The Portal can include access to management information so that you can understand the cost impact of contractors falling within the new rules.

The modular design allows you to link to other OPM modules or establish single sign on links to third party sites and can be configured to pull through information directly from your contractor database.



02

KPMG OPM - Identification

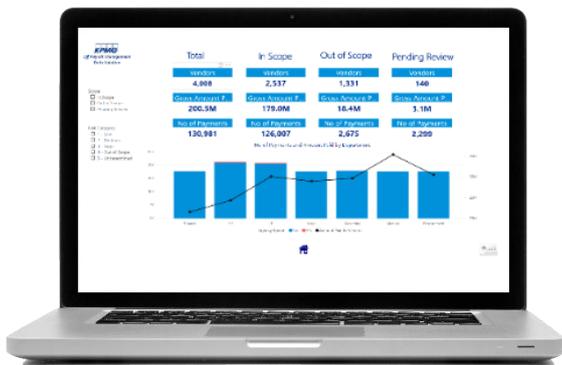
Organisations can experience difficulties in identifying off-payroll working engagements at risk of falling within the scope of the new rules.

KPMG's OPM Identification solution reviews the supplier population, interrogating large volumes of data obtained from sources such as purchase ledger or existing contractor databases.

Once identified, PSCs are verified against the latest Companies House data and UK SIC codes so that a risk rating can be assigned based on the likelihood of PSCs falling within the rules.

The contractor analysis can also allow us to model the cost impact of contractors that fall inside IR35 to support the end client in renegotiating contractor terms to apportion the additional cost.

Features of OPM Identification



Identification of PSCs

- Ability to analyse significant amounts of data such as purchase ledger, contractor ID database, preferred supplier listing
- Support with identification of contractors operating via a PSC or Agency by verifying registered details held at Companies House
- Risk categorisation based on agreed parameters
- Analyse areas of the business that engage affected contractors who may be delivering business critical projects so that potential retention issues may be mitigated



Review of contractor spend

- Our dashboard allows data to be presented easily, providing the necessary management information for organisations to understand and model their contractor spend by department or cost centre
- Full vendor drill down to understand the number and quantum of individual/departamental payments made
- Review compliance against preferred suppliers list



Cost analysis

Analyse and present costs to aid decision making by:

- Modelling the impact of changes to contractor day rates, for example
- Modelling costings to demonstrate the cost of future compliance, including the application of PAYE, National Insurance and Apprenticeship Levy

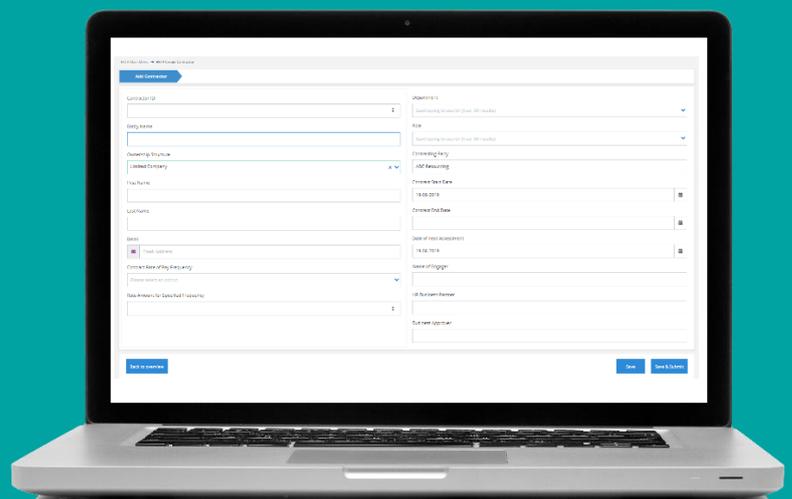
03

KPMG OPM - Assessment and Workflow

OPM Assessment and Workflow allows end clients to undertake employment status assessments for contractor populations.

These assessments are undertaken by applying our bespoke questions to individual engagements which take into consideration relevant case law and our experience of outcomes for contractors in similar sectors. The tool is configurable based on an end client's specific requirements and will issue a Status Determination Statement to all relevant parties.

In addition, OPM's workflow capabilities allow end clients to maintain a full audit trail of the decisions made to demonstrate that reasonable care has been taken in reaching a decision on employment status. Any dispute to the employment status assessment is managed within the tool allowing supporting evidence to be uploaded and stored. All statutory time limits are managed with regular reminders issued to relevant users during the 45 day dispute period.





Status assessments

- A bespoke status assessment tool tailored to your organisation providing an immediate result to determine whether the contractor is in or outside of IR35
- Comprehensive question library which considers our extensive experience and relevant case law, taking into account the latest tribunal decisions
- Ability to undertake unlimited assessments in respect of each contractor
- Electronic SDS issued to relevant parties including reasons for the decision reached.



Data management & workflow

- Upload of bulk contractor data as part of configuration and import of relevant records to identify where status assessments are required
- Automated reminders to review status decisions for ongoing engagements, demonstrating reasonable care and supporting ongoing compliance
- Full contractor history maintained within the tool providing a full audit trail of each assessment made
- Fully tracked dispute resolution process including ability to escalate the review of the reassessment.



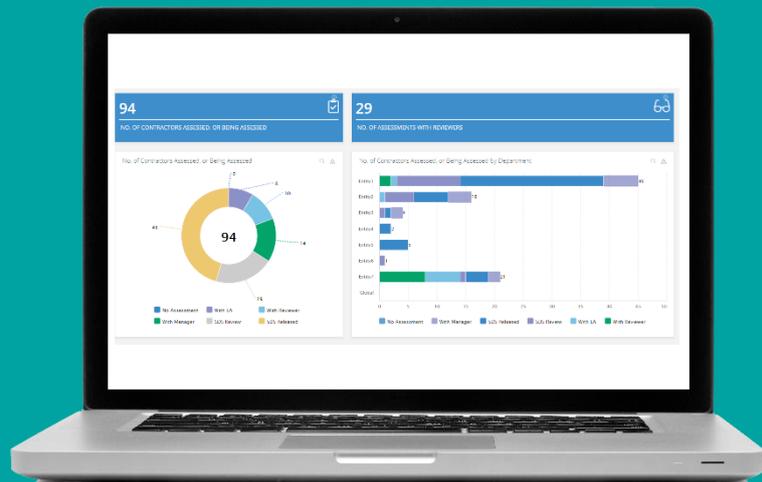
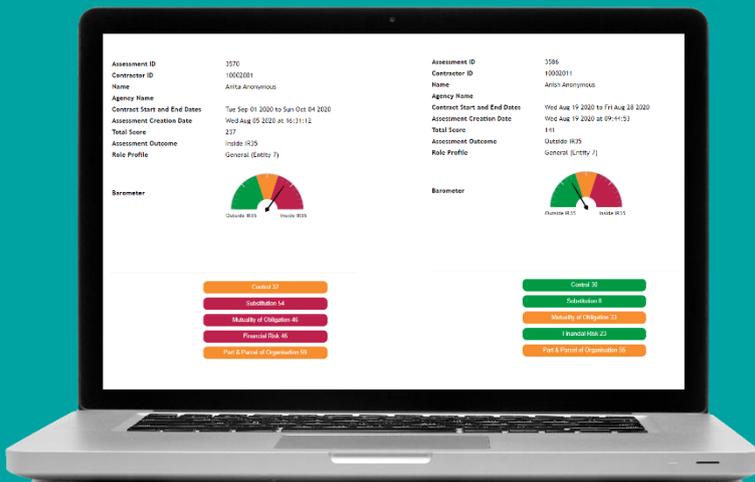
Management information

- Dashboard tailored to the relevant user profile, providing real time data as to the progress of status assessments across the contractor population, including those being on-boarded
- Ability to view and track progress of assessments across your organisation including real time reporting
- Management reporting including download of tailored reports for relevant stakeholders within the organisation.



Compliance record

- Clear audit trail and storing of key documents/information to support the status decision, demonstrating that reasonable care has been taken for SAO purposes and for presentation to HMRC, where appropriate
- At a glance visibility of the status determination for each contractor, including reasons to support the decision
- Facility to manage and track the client-led status disagreement process within the relevant timescales





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Workflow and CEST

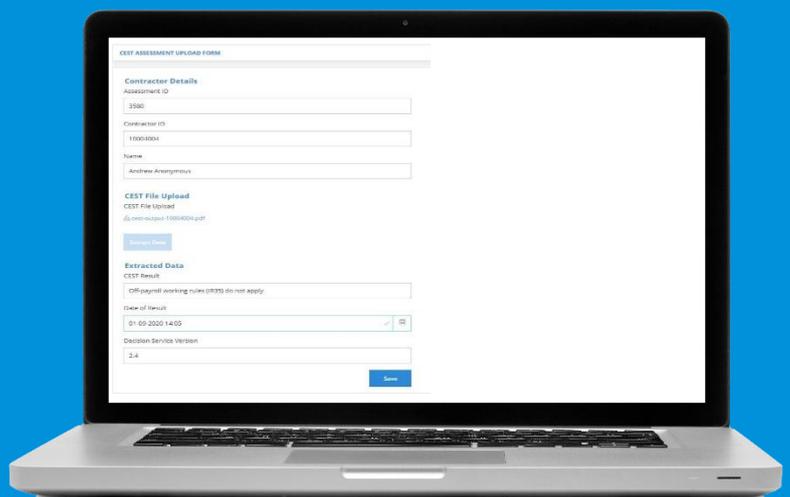
KPMG’s OPM Workflow and CEST allows end clients to utilise the workflow elements of the OPM tool whilst continuing to rely on the output from assessments performed using HMRC’s Check Employment Status for Tax (“CEST”) tool.

This option allows clients who prefer to use the CEST tool but who also require workflow capabilities which are currently unavailable in CEST. This option ensures that the end-to-end process is managed and documented appropriately, providing a full audit trail of actions taken and decisions made.

Combining OPM Workflow and CEST allows for the creation and distribution of an electronic SDS to relevant parties. The dispute workflow is also fully managed within the tool allowing for evidence in support of the dispute to be uploaded. In addition, regular reminders will be issued during the 45 day statutory time limit.

A full suite of management information and reporting can be obtained using the OPM real-time dashboard.

Additional OPM modules may also be used in conjunction with this option where required.



05

Additional OPM Modules



Companies House API

This module provides an interface between Companies House and OPM. It allows users to undertake a search for a new supplier against relevant data held by Companies House. The purpose of the search is to determine whether a supplier could be regarded as providing services through an intermediary under the IR35 legislation. The interface confirms active Directors for the Company and auto populates some information within the OPM tool to create the contractor record to avoid double keying.



Role profiles

This allows the assessment questions to be completed for a particular role where the same answers would otherwise be given. Hiring Managers can select a configured 'role profile' where certain questions will be pre-populated, allowing for efficiencies in completing and undertaking the assessment, including any authorisations required.

KPMG consultancy support will be required to correctly determine which questions can and should be pre-populated. This support may include, for example, undertaking interviews to assess the contractual and working patterns of a group of workers who undertake the same role within the organisation.



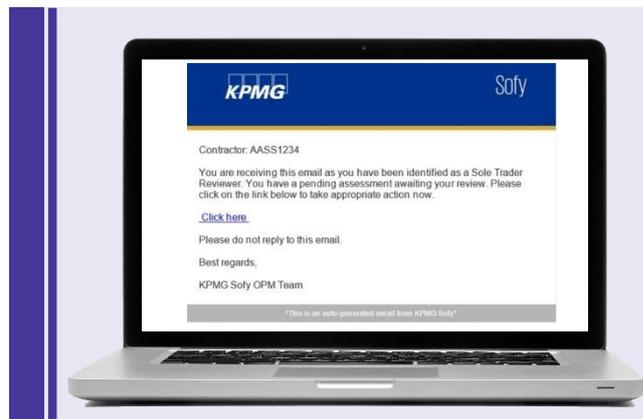
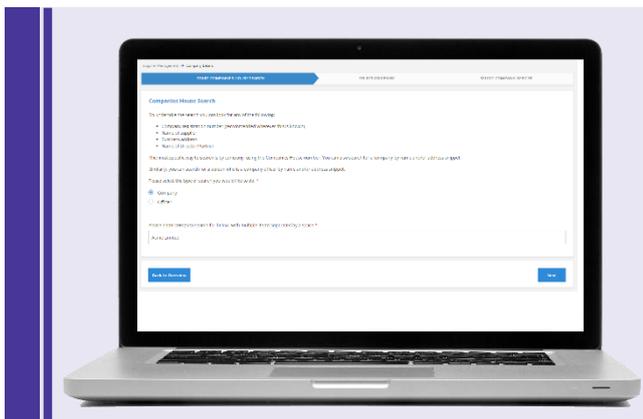
Sole Trader assessments

This module introduces a separate workflow and assessment module to determine the employment status of off-payroll workers operating as sole traders. Assessments will be undertaken using KPMG's bespoke employment status questions, allowing for a full audit trail of the decision process. A formal statement can be issued to sole traders informing them of the employment status decision, but there is no formal requirement to do so.

This additional module provides the following:

- a database of all sole-traders

- risk based scoring to determine the outcome of the assessment
- approval levels to ensure responsibility for and authorisation of assessments including dispute
- issuing an electronic statement to relevant parties, as required
- management Information reporting and dashboard
- email reminder notifications
- ability to upload and retain key documentation which support the overall decision.



OPM Case Study

Our client is a global business engaging over 1,000 contractors across its multiple UK subsidiaries. Their key requirement was that any IR35 technology solution would provide a centralised platform supporting multi-user access, full transparency of progress as well as a clear audit trail of actions taken. They were working to tight timeframes to support the volume of assessments needing to be undertaken and expected high volumes of disputes against those assessments.



How we supported them

Workshops

Being engaged to support with their end-to-end IR35 strategy, we delivered a number of key stakeholder workshops ensuring that all areas of the organisation participated in the debate and were fully aligned with that strategy. The workshops covered engagement models, the impact of varying contractual terms and working practices as well as aiding understanding of how our OPM technology could be configured to support their business.

OPM Identification

Using KPMG's OPM Identification module, we interrogated their purchase ledger records for a 12 month period. Applying our logic built in to OPM, we were able to identify easily those engagements at high risk of falling within the new rules. We were also able to identify multiple employment agencies supplying labour across its business for further risk assessment. Results were relayed through OPM's interactive dashboard, allowing further interrogation of suppliers where assessment was needed as well as identification of key talent on business critical projects.

OPM Assessment & Workflow

Using KPMG's bespoke employment status questionnaire within OPM together with our risk based scoring was a primary factor for this engagement given our clients past experience of HMRC's CEST tool. The flexibility of KPMG's

OPM Assessment & Workflow capabilities were fundamental to their overall strategy, supporting the businesses wider compliance obligations including SAO and CCO.

OPM's dispute management functionality ensured that full consideration could be given by the business to representations made by contractors and acknowledgement via a revised SDS issued following reassessment.

OPM Sole Trader Module

The business also engages a large number of sole traders and wished to ensure that this population was assessed with the same level of care and attention as their IR35 contractors. KPMG's OPM Sole Trader Module provided them with a complete solution, using our bespoke questionnaire applied to the respective engagements. The OPM workflow allowed them to bring together a complete database of sole traders ensuring that they were accurately assessed when onboarded and also subject to regular reassessment

Ongoing activity

OPM has been licenced by our client as part of its compliance process to manage regular re-assessments and future engagement of contingent labour.

Why KPMG is the clear choice



Proven track record

Having already worked closely with a number of clients including several leading FTSE 100 companies to implement our OPM technology to support the changes that were meant to take effect from 6 April 2020, we have practical expertise of the issues and challenges that will be faced by companies preparing for change now.



End-to-end solution

Our market leading OPM technology is used by clients to provide a complete solution for the management of IR35 compliance. OPM reduces the administrative burden of the new rules allowing businesses to manage cost effectively.



Flexibility

We have worked closely with a small number of early adopter clients to understand how the changes impact their business. We have used this knowledge and insight to shape our technology solution, so it has the flexibility to support our clients in meeting their compliance obligations. OPM provides clients with a module-based solution allowing them to shape the technology to match their business requirements.



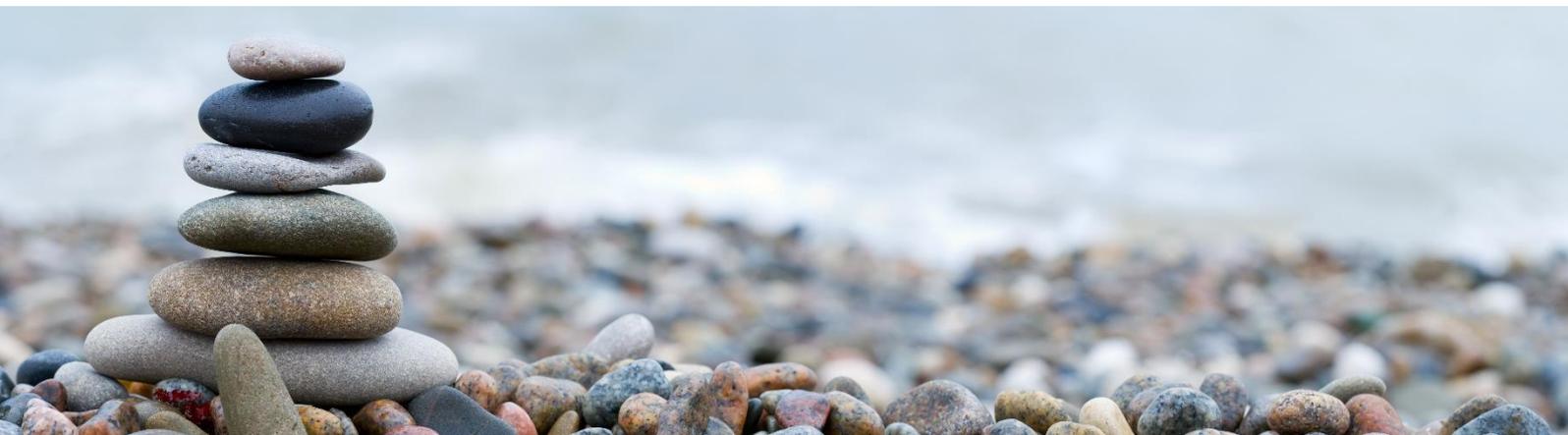
Breadth of Experience

We have drawn on the combined experience of our multi-disciplinary team in designing the risk-based employment status assessment. Our bespoke questionnaire takes into consideration HMRC guidance and practice, as well as the latest case law and our experience of employment status for contractors in different sectors. Clients can review each engagement taking into account their contractual terms and conditions and working practices to arrive at a robust decision.



Further support

KPMG can provide additional support to complement our technology ranging from assessing associated tax and employment law risks and impact of contracts and working practice on employment status. We can help clients manage the people issues arising from these changes – from planning their workforce to ensure the correct capability exists within the business through to behavioural change management and the talent management processes.



Contact us

If you would like more information as to how KPMG's OPM technology solution can support your organisation in complying with the new off-payroll working rules, please get in touch with your local KPMG advisor or contact one of the following to discuss your requirements:



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