

[REDACTED]

08 February 2019

Dear [REDACTED]

Freedom of Information Act 2000– Information request (ref: FOI_19-012)

We have now considered your request of 15 January 2019 for information relating to off-payroll legislation.

Our response is on page 2 of this letter, together with a copy of your request.

On this occasion it is not possible to provide the requested information. In line with your rights under section 1(1)(a) of the Act to be informed whether information is held, we confirm that the University does not hold a breakdown by months of the number of assessments conducted by UEA, nor can we provide a breakdown of assessments that are 'inside IR35' or 'outside IR35'.

We hope this information will meet your requirements, however if you are not satisfied you have the right of appeal. If you wish to appeal, please set out in writing your reasons for appealing and send to the above address. You must appeal within 40 working days of the date of this letter. In line with section 5.3 of the UK Government's Freedom of Information Act Code of Practice, we are not obliged to accept internal reviews after this date.

You also have a subsequent right of appeal to the Information Commissioner's Office. Further information is available on their website:

https://ico.org.uk/Global/contact_us, or by telephone on 0303 123 1113.

Please note that any material over which UEA has copyright is released on the understanding that you will comply with all relevant copyright rules regarding reproduction and/or transmission of the information provided.

Please quote our reference given at the head of this letter in all correspondence.

Yours sincerely

Kirsty McDonald
Information Compliance Assistant
University of East Anglia

Response to Freedom of Information Act 2000 request (FOI_19-012)

The Off-payroll legislation was introduced in Chapter 10 of the Income Tax (Earnings and Pensions) Act 2003, with the new legislation going live from April 6th 2017. This new legislation overrode, in the public sector, the existing Intermediaries Legislation (Chapter 8, ITEPA).

The new legislation is here:

<https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2017%2F10%2Fschedule%2F1%2Fpart%2F2&data=02%7C01%7Cfoi%40uea.ac.uk%7Ca13b277fa9a848c1ea6008d67aad101b%7Cc65f8795ba3d43518a070865e5d8f090%7C0%7C1%7C636831281126437331&sdata=FsCE431CcwO%2BwqYHBJKPKh2MuLuzP7QkMPHh1tXcxv4%3D&reserved=0>

One of the key differences between the chapter 8 and chapter 10 is that the public authority is required to decide whether the off-payroll working rules (Chapter 10) apply based on whether the conditions have been met in section 61M(1)(d).

61M Engagements to which Chapter applies

(1) Sections 61N to 61R apply where—

(a) an individual (“the worker”) personally performs, or is under an obligation personally to perform, services for another person (“the client”), (b) the client is a public authority, (c) the services are provided not under a contract directly between the client and the worker but under arrangements involving a third party (“the intermediary”), and (d) the circumstances are such that— (i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client, or (ii) the worker is an office-holder who holds that office under the client and the services relate to the office.

This requires the public authority to test whether the worker would be considered an employee based on employment status case law.

These assessments would have been completed by you with each assessment receiving its own determination.

Please can you provide:

A monthly breakdown, from April 2017 onwards of the number of assessments conducted by you, together with the number of assessments that are considered to be “inside IR35” (i.e. 61M(1)(d) applies) and the number that are “outside IR35” (i.e. 61M(1)(d) does not apply)

[Information not held - s.1(1)(a), Freedom of Information Act]

Since April 2017, 259 assessments have been undertaken, however the way in which those assessment had been recorded by the University does not allow for a breakdown by month, neither does it allow for a breakdown by those ‘inside IR35’ or ‘outside IR35’.