Employment status guidance: Sole Traders

1. Background

1.1. Following liaison with the Purchasing Office, Payroll and HMRC, the following guidance is provided to help determine the employment status of Sole Traders and whether we pay them for services to be provided as a vendor[1], as self-employed Sole Traders or as an individual.

1.2. With Sole Traders, the onus is firmly on the University to establish beyond reasonable doubt if the engagement (the work they do for the University determined by the contract) is classed as a self-employed Sole Trader, an employee of the University or via intermediaries legislation.

2. Guidance

The key question is, who is the contract with: a vendor or an Individual? All Sole Traders should first be put through the HMRC ESS tool to determine if they are:

- a self employed Sole Trader – paid as a vendor via Purchasing
- a Personal Service Company (PSC) – payment on IR35 form via Payroll
- an employee - paid as an individual via Payroll.

Example

Janet Smith is a fitness instructor who advises the University she is a Sole Trader. Who is the contract with, a vendor or an individual?

The answer is contingent upon the work Janet does for the University determined by the contract, and not similar work she may do elsewhere:

- If Janet hires a village hall, uses her own sound system and arranges her own fitness sessions, she is likely to be a self employed Sole Trader and we would pay as a vendor via Purchasing.

- If Janet uses our fitness centre, uses our equipment and works at a fixed time determined by us, she is likely to be an employee or worker and we would pay as an individual via Payroll.

3. Value for money (VfM)

3.1. If we determine that the engagement is with a vendor, to ensure VfM all work is subject to normal Purchasing procedures.

3.2. If paying an individual total fees in excess of £25,000, please contact Purchasing to advise re the required formal tendering process.

---

[1] Vendors managed by Purchasing include Limited Companies, Partnerships and self-employed Sole Traders