2024 Updates & 2025 Predictions:

Navigating Workforce Changes for End Hirers

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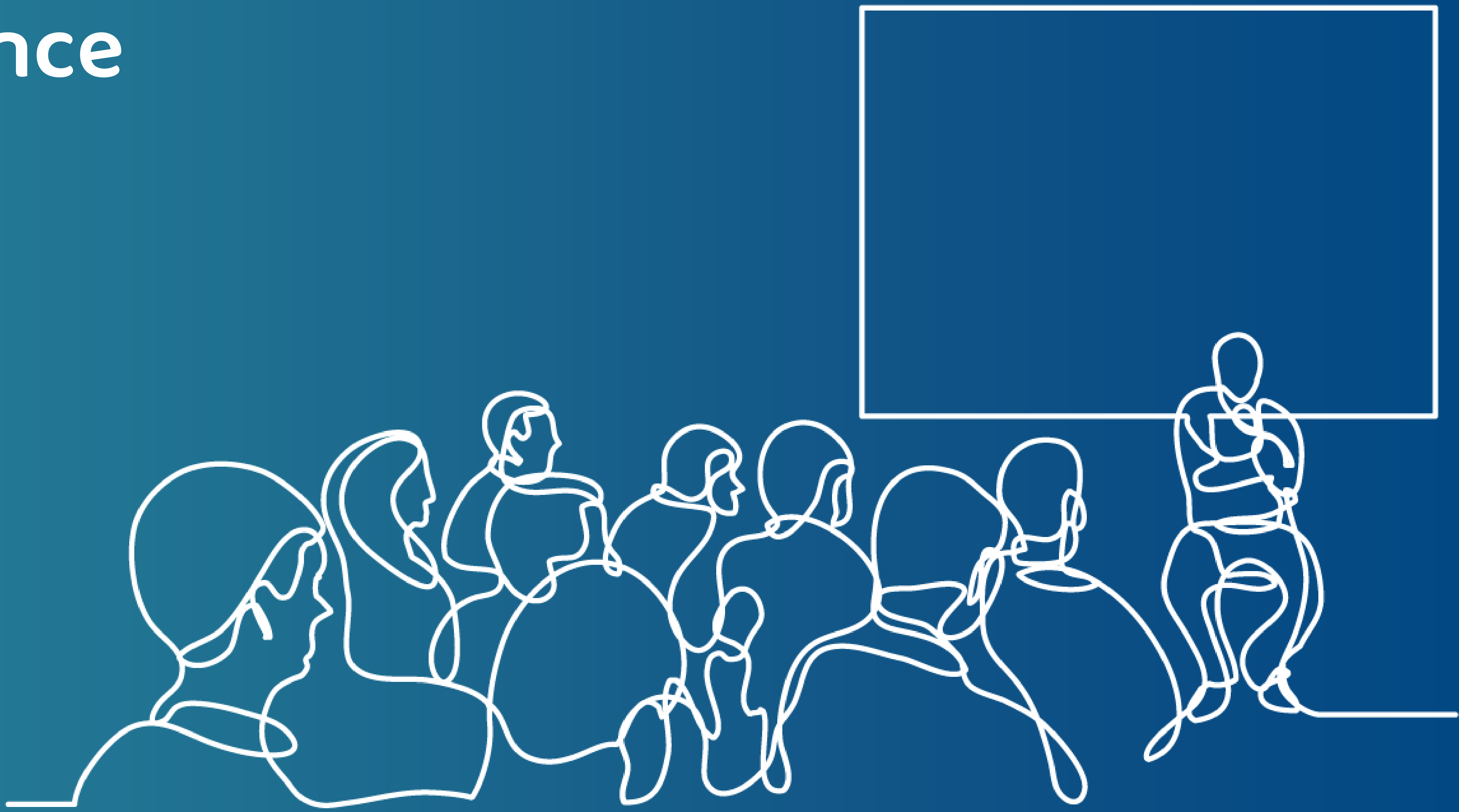
2024 Compliance Changes



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Off-Payroll: Liability off-set

Off-payroll liability refers to the financial risk a business faces if it incorrectly determines a contractor's IR35 status, potentially resulting in unpaid taxes, penalties, and interest owed to HMRC.

- Previous legislation did not allow HMRC to off-set amounts of tax and NICs already paid by a worker and their intermediary against the PAYE liability of the deemed employer.
- Instead, where a worker and their intermediary have paid tax and NICs on income that should have been subject to the off-payroll working rules, they may be entitled to claim a repayment for amounts they have overpaid.
- The pre-April 2024 process resulted in the deemed employer bearing the full cost of the tax and NIC and HMRC receiving tax twice on the same income.
- From 6 April 2024 the liability is "**shared**" between the deemed employer and the worker, by estimating an off-set for tax & NICs already paid by the worker and their company. This significantly reduces the perceived tax risk of outside IR35 roles.

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Risk to your Business

If there is a fee payer in your supply chain, which is usually a recruitment agency, you should now ask the agency to collect specific information about the contractor:

- The worker's full name or National Insurance Number (NINO).
- The intermediary's or partnership's name.
- The intermediary's Company Reference Number (CRN) or VAT Registration Number (VRN), where applicable.
- The partnership's reference number, where applicable.
- Also, confirmation that the PSC and worker have paid the tax (or no off-set available).

Reasonable Care is still the key!

You are required to **exercise reasonable care** when assessing contracts for IR35 – this has not changed.

HMRC compliance activity is focussed on this, if RC is met enquiries are closed down.

Employment Rights Bill

The Employment Rights Bill is proposed legislation aimed at strengthening worker protections, addressing issues like fair pay, job security, and rights for contract workers.

- Day 1 Rights – Paternity, parental and bereavement leave, sick pay, unfair dismissal – compassionate to circumstances, educate you on the rights of workers even those considered temporary labour.
- New anti-harassment obligations - MeToo movement – Proactive duty to take reasonable steps to prevent sexual harassment in the workplace.
- Fair Work Agency (FWA) replacing Gangmasters and Labour Abuse Authority (GLAA) and the Director of Labour Market Enforcement into one enforcement body. FWA will be able to investigate and enforce employment rights, including holiday pay and sick pay.
- Fire and rehire – Restricted not abolished.

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Employment Rights Bill – Zero Hour Workers

+ Seeking to tackle one-sided flexibility in zero hours contracts. Considering right to guaranteed hours, reflecting the number of hours usually worked.

+ Right to reasonable notice to shifts and shift cancellations. Implications of shift cancellations – payment?

+ Detailed consultation just closed on how ERB will apply to agency workers. Seeking views on:
    - Whether agency workers should be offered guaranteed hours, if so by whom – agency or client?
    - Competing consideration of not changing the nature of the relationship between agency, worker and client.

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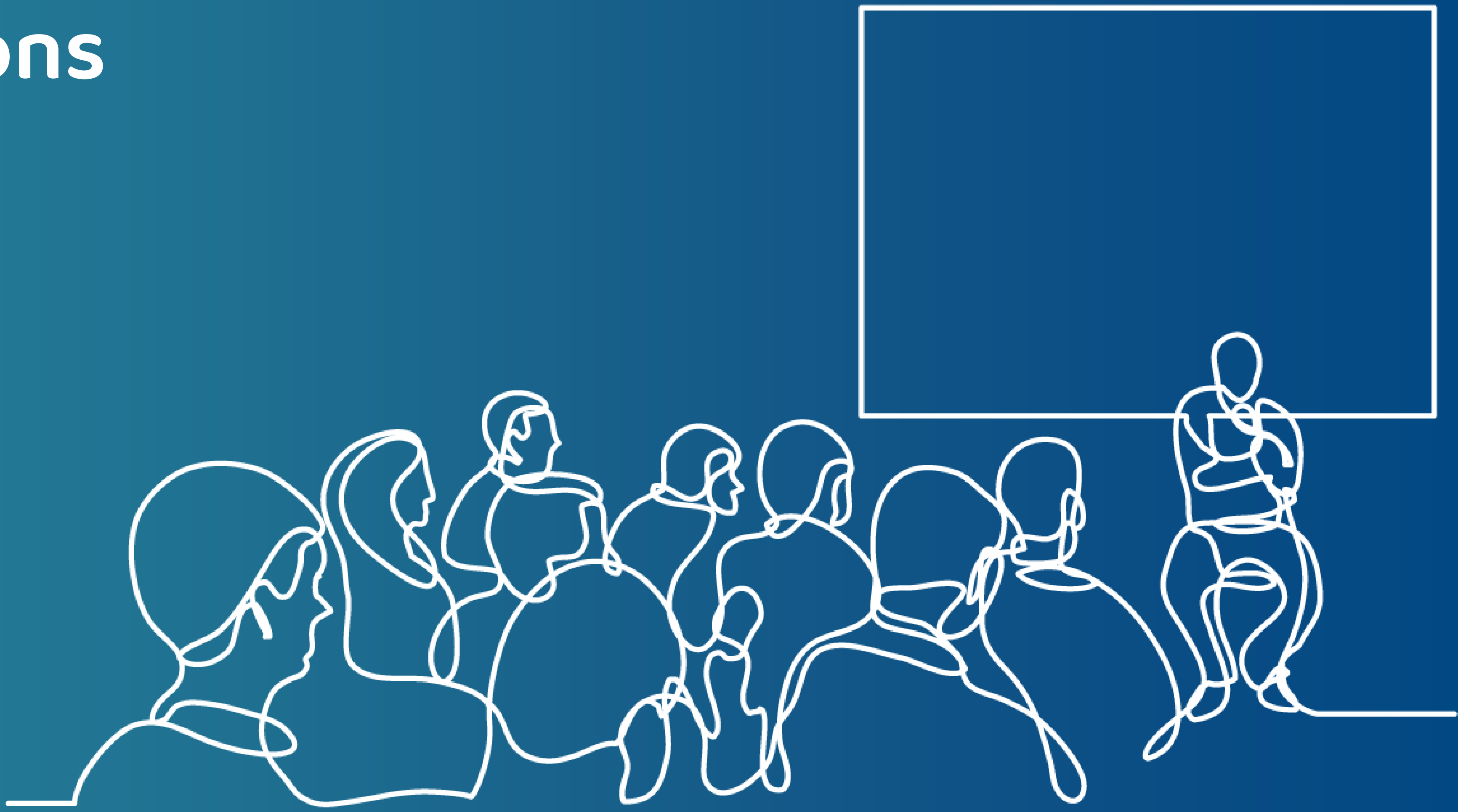
Autumn Budget Outputs

- 6.7% increase in the National Minimum Wage - the minimum wage for over 21s will rise from £11.44 to £12.21 p/h.
- The secondary threshold for Employers NIC will fall from (currently) £9,100 p/a to £5,000 p/a from April 6th 2025.
- These will increase entry level assignment rate for umbrella (to circa £16.30 p/h).

- Employers NIC changes will reduce take home pay for umbrella company employees:
- Assignment rate £20 per hour: take-home pay reduction £11 a week – 45p p/h rise in AR.
- Assignment rate £40 per hour: take-home pay reduction £13 a week – 66p p/h rise in AR
- Assignment rate £70 per hour: take-home pay reduction £17 a week – 98p p/h rise in AR.

- Regulation of the umbrella company market will result in agencies (or end client if no agency) bearing the tax and NIC bills of non-compliant and potentially insolvent umbrella companies.
- Ensuring your supply chain of umbrella providers is compliant is an important task to complete in advance of the changes coming into play.

2025 Predictions



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2025 Predictions

Off-payroll offsets

Have reduced the financial risk associated with incorrect outside IR35 determinations – more than halves it to circa 15% of the assignment rate.

You should ensure your contractors working on outside IR35 roles are managing their company filings and tax payments correctly.

Reduction in blanket bans

End clients and recruiters are becoming more open to managing IR35 correctly.

The recent Employment Bill and forthcoming regulation of umbrella companies will lead to a review of the cost and risk associated with umbrella and agency temps. This new risk can be mitigated by a strictly enforced umbrella PSL and if the contractor is (compliantly) outside IR35.

A shift in the market

We are likely to see a consolidation of the umbrella market and a shift back towards PSC from Umbrella as supply chains understand the changes in the risk profile of different ways of engaging contract resource and look to release commercial pressures.

HMRC Compliance Activity

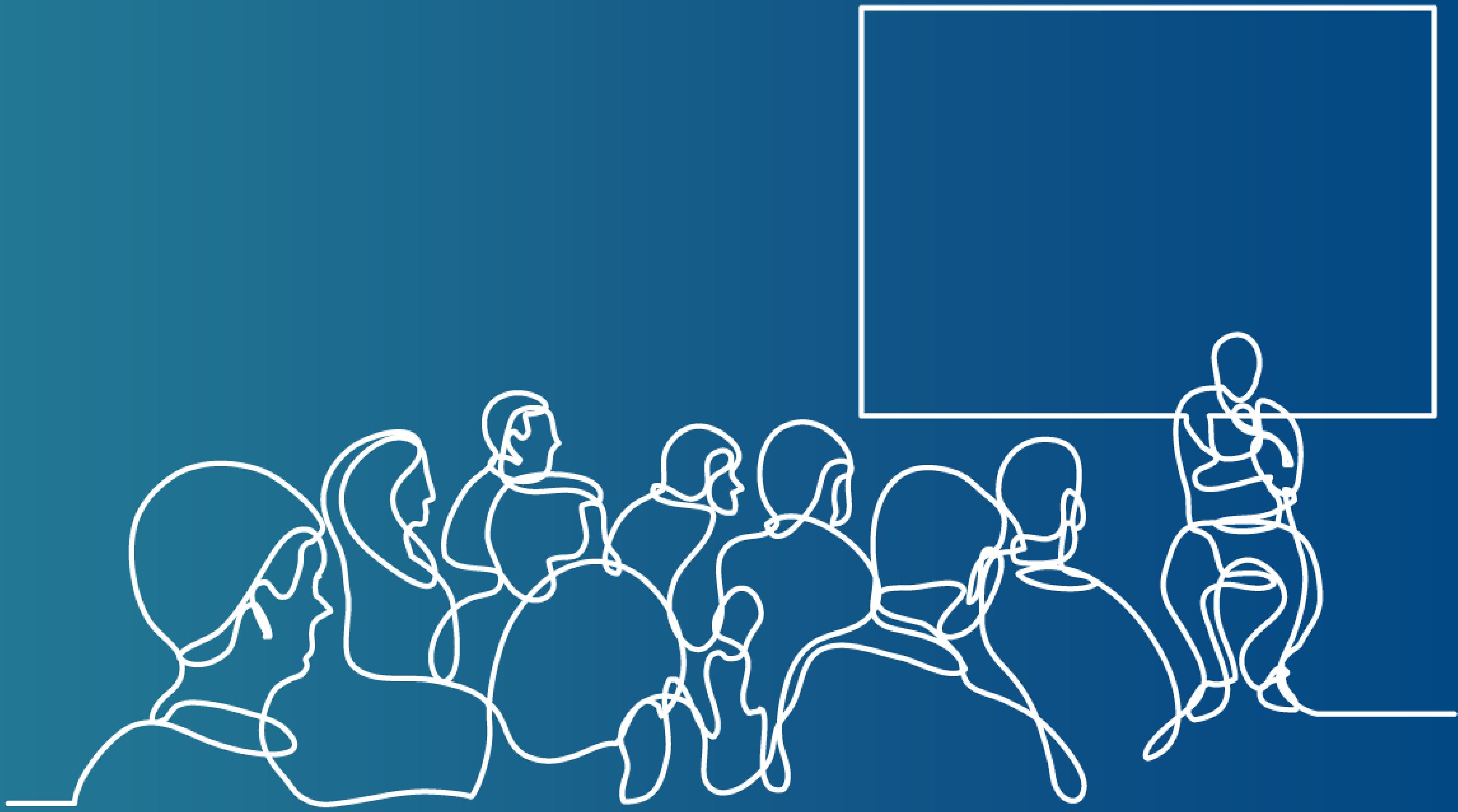
+ HMRC are actively policing IR35 and have recently commenced recruitment for 5,000 more compliance officers to tackle the "tax gap".

+ Increased focus on Statement of Work arrangements and how businesses have determined these are true contracted out services.

+ Increased requests for information being issued to end clients, includes:
  - How many limited company contractors in an organisation (inside and outside IR35)
  - How many individuals via umbrella companies, agency workers, or sole traders.

+ Clamping down on non-compliance in the supply chain – expectation for end clients to understand full chain

Best Practice



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IR35 Best Practice

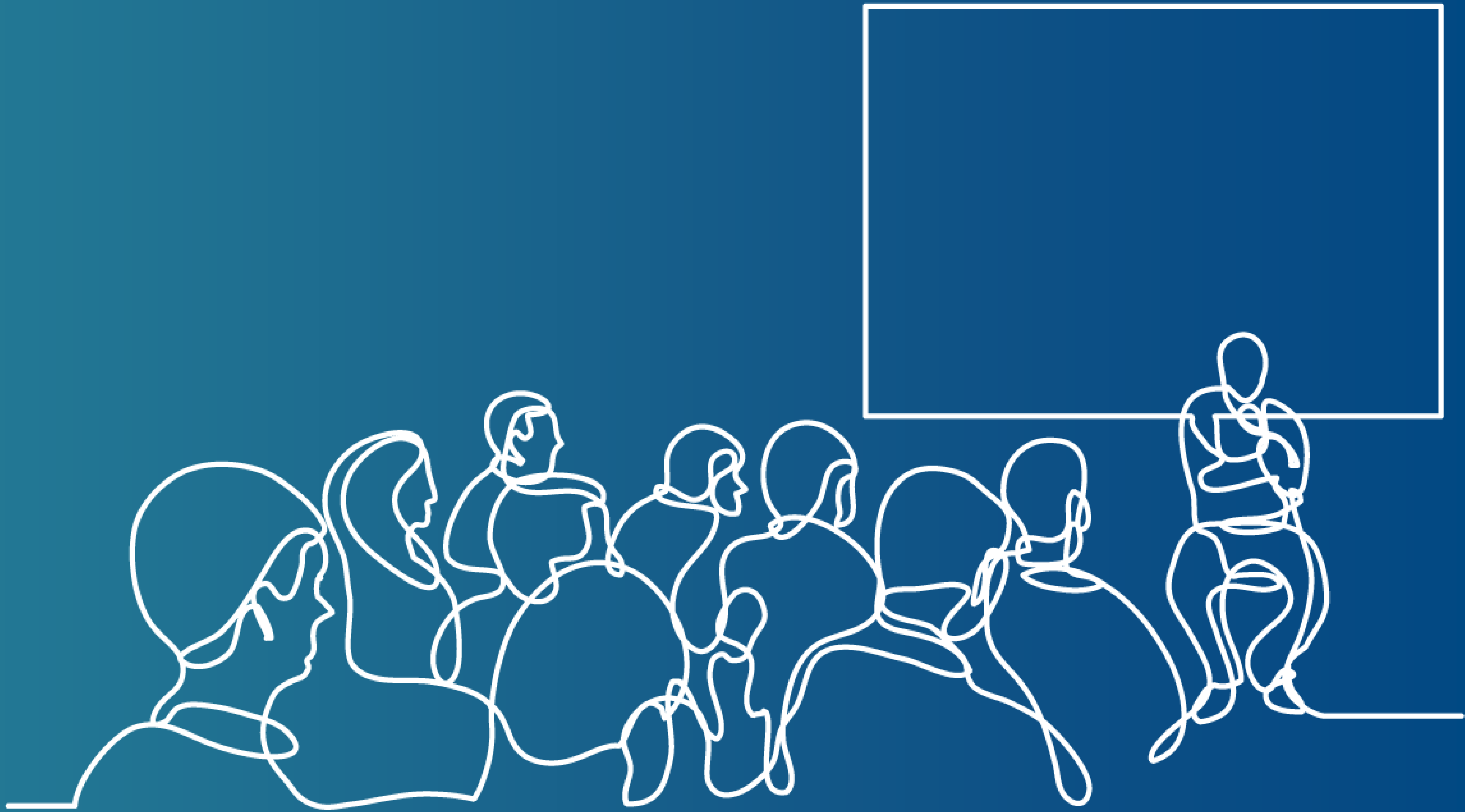
Management of the off-payroll rules should be end client lead e.g. you should own and manage the process. Outsourcing this to an agency with the agency and candidate determining status is a red flag to HMRC.

You should aim to hit the reasonable care threshold – this is more than just producing and SDS and involves having a policy for off-payroll workers, staff training and awareness, robust contracts that match working practices and an evidence pack available for when HMRC come knocking.

Be wary of CEST and use of other automated decision making tools which often fail to take into account a review of the written contract and purely focus on working practices.

Ensure the correct person in your organisation provides the information to base an assessment on – centralising to HR or outsourcing to the agency consultant or worker are common errors.

Solution



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Solution

Partnering with Brookson delivers significant value for you and your supply chain:

Benefits for you (the end client):

- Working with an IR35 specialist law firm to provide accurate and compliant advice
- Legal privilege
- Ensure compliance
- Legal experts on hand
- Suite of services available throughout the rest of the Group

Benefits for the worker:

- Financial services aimed at the contracting market
- Accountancy services
- Compliant payroll solutions (for Inside IR35)

Benefits for the Agency:

- FCSA
- Umbrella Company
- Accountancy services for PSC clients
- IR35 service offering to offer to your clients – Brookson Legal

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About Brookson Legal

Brookson Legal Services is part of the Brookson group of companies. We are a law firm regulated by the Solicitors Regulation Authority. Our main area of work is employment status, and particularly IR35. Our team have been advising on IR35 since its introduction in 2000.

Advantages of using Brookson Legal:

History	We have solicitors with 20+ years' experience of providing IR35 advice
Expertise	We are IR35 experts, with team members who have previously held positions on HMRC's IR35 forum
Credibility	We are a law firm authorised and regulated by the Solicitors' Regulation Authority
Insurance	Our advice is protected by Professional Indemnity Insurance meeting the requirements set by the Solicitors' Regulation Authority

Do you need support?

Get in touch with Brookson:

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