Outside IR35: what to agree, and what to keep.

For a client or an agency setting up a contract engagement with a one-person company. The factors to agree before anything is signed, and the evidence worth keeping while the work runs.

General information, not tax or legal advice. The rules are HMRC's: see the off-payroll working guidance and Check Employment Status for Tax on GOV.UK, and take proper advice on anything with money attached. Checked 17 September 2026.

BEFORE ANYTHING IS SIGNED

- [ ] **You know whether the decision is yours or the contractor's**
  Public sector, and medium or large private sector clients, decide. For a small private sector client it stays with the worker's own company.
- [ ] **Check Employment Status for Tax has been run on how you will actually work**
  Not on the contract you would like to sign. HMRC stands by the result while the information given stays accurate.
- [ ] **A status determination statement has been written, with the reasons in it**
  The conclusion on its own is not enough. Reasonable care has to be taken and shown.
- [ ] **The determination has been passed to the contractor, and down the chain**
  In an agency arrangement the PAYE responsibility only lands on a party once they hold it.
- [ ] **The contractor has read it and said whether they agree**
  Differences are far easier to talk through now than after eighteen months of invoices.
- [ ] **There is a route for disagreeing, and someone to answer it**
  A client has 45 days to respond to a challenge. Decide now who that is.

SUBSTITUTION

- [ ] **The person who would approve a substitute has been asked, not just the drafter**
  Usually the manager whose work would be handed over. Their honest answer is the real clause.
- [ ] **The right is written as it would actually work, including who pays the substitute**
  A right nobody would honour is worse than none, because it puts the gap in writing.
- [ ] **The grounds for rejecting a substitute are reasonable and written down**
  An unqualified veto is not a right of substitution.

CONTROL

- [ ] **The engagement names a deliverable, not a list of duties**
  What is being delivered, rather than what the person will spend their days on.

- [ ] **Hours and working pattern are the contractor's to set**
  Fixed hours, set by you, point one way. So does being moved onto whatever needs doing this week.
- [ ] **Nobody in your business line-manages them**
  No appraisals, no objectives, no place on the org chart.
- [ ] **Stand-ups and meetings are for coordinating, not for handing out tickets**
  Attending is ordinary supplier behaviour. Being assigned work in it is control.
- [ ] **They use their own equipment, and their own accounts where they can**
  Who provides the tools is one of the factors in HMRC's own manual.
- [ ] **The induction treats them as a supplier, not a new joiner**
  Staff handbooks, welcome emails and team socials all say employee to an inspector.

MUTUALITY OF OBLIGATION

- [ ] **The contract has an end date and a deliverable, not a rolling arrangement**
  An indefinite roll with no defined end starts to look like employment whatever the wording says.
- [ ] **More work means a new scope, not an extension by default**
  Re-contracting is the whole fix, and it is also just better project management.
- [ ] **Neither side is obliged to offer or accept the next piece**
  This is the test that shifts quietly over a long engagement.
- [ ] **The determination is re-read at every renewal**
  Working practices drift. An honest determination can stop being true without anyone deciding anything.

EVIDENCE WORTH KEEPING WHILE IT RUNS

- [ ] **The signed scope for each piece of work, with its dates**
  The cheapest evidence there is, and you were going to write it anyway.
- [ ] **Invoices tied to deliverables or milestones rather than to attendance**
  How someone is paid is one of the factors, and timesheets alone read as hours bought.
- [ ] **A note of any substitution discussion, even one that came to nothing**
  Evidence the right is live, rather than words that have never been tested.
- [ ] **Evidence of other concurrent clients, where there are any**
  Working for more than one client at a time points away from employment.

Take it, change it, use it with anyone you engage. No need to credit me. **adamroe.co.uk/blog/ir35-web-developer**