

## Personnel Committee

Date: **Monday 27 February 2017**  
Time: **10.00am**  
Venue: **Conference Room, Ground Floor, South Wing,  
County Hall, Norwich**

## Supplementary Agenda

### Membership

Mr T Coke  
Mr C Jordan (Chairman)  
Mr G Nobbs  
Mr A Proctor  
Mrs A Thomas

#### 4. Addendum to Item 4: Pay Policy Statement 2017-2018

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Chris Walton  
Head of Democratic Services  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

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## **Addendum to Item 4 Pay Policy Statement 2017-2018**

The report outlines by way of context some proposed changes to legislation, which will affect public sector employment. This Addendum briefly describes another change, which will take effect from 06 April 2017.

### **Changes to the way intermediaries legislation (IR35) is applied to off-payroll working in the public sector from 6 April 2017.**

1. A technical note and draft legislation have been published but the legislation was subject to consultation until the end of January 2017 and is not yet finalised.
2. 'IR35' is existing legislation designed to combat tax avoidance by workers supplying their services to clients via an intermediary, such as a limited company, but who would be employees if the intermediary was not used. If caught by IR35, they have to pay income tax and National Insurance Contributions (NICs) as if they were employed.
3. Proposed reforms to how IR35 is applied, and to who is responsible for determining whether it should apply in each case, are going ahead from 6th April 2017 for any current or new engagements in the public sector.
4. The new measure "Off-payroll working in the public sector" moves responsibility for deciding if the IR35 rules apply from the Personal Service Company ("PSC") contractor, to the public authority (defined as organisations in scope of FOI) engaging the PSC contractor
5. The rules apply whether the PSC contractor is engaged directly by NCC or through a 3<sup>rd</sup> party intermediary such as an agency
6. The public authority will be required by a new provision to tell the PSC (or agency) whether engagement is "inside" or "outside" IR35 within 31 days. Liability for the tax and NI will transfer to NCC if this assessment is not made in time.
7. HMRC are developing an electronic tool to assist in conducting the test, expected to be published later in February
8. If the engagement is 'inside IR35', responsibility for deducting tax and national insurance will move from the PSC to NCC who will also be responsible for Employers' National Insurance via payroll (if engaging directly) or with the agency
9. IR35 payments by NCC will count towards the apprenticeship levy.

**Actions:**

10. County Leadership Team and County Leadership Group have been briefed about the proposed changes, for cascading through the organisation.
11. All managers have been asked to provide details of all engagements, irrespective of the arrangements, currently being paid via accounts payable. The arrangements will be reviewed to assess whether they fall in or out of scope of IR35.
12. The outcome of the assessment will be communicated in writing by March to all individuals affected, and arrangements made to process payments from 6 April via payroll, or confirm to the 3rd party agency that they should deduct tax and NI.
13. We are liaising with Comensura to ensure that all current and future engagements via our neutral vendor framework are compliant.
14. Internal systems and processes are currently being reviewed to incorporate the new requirements and manager guidance will be published on PeopleNet in March.

**Anticipated Impact:**

15. There will be greater transparency about the cost of interims and consultants across NCC.
16. This may be an opportunity to transfer some agency/PSC workers to NCC employment as there will be little financial benefit for many to retain their self-employed status, eg social workers. Children's Services are actively in dialogue with a number of agency social workers who meet our quality standards, to encourage them to convert to direct employment with the Council.
17. There is a great deal of speculation currently about the financial impact of the change. Many agencies predict no increase in hourly/daily rates as individuals should already be paying PAYE if they are not genuinely self-employed.
18. It may be more difficult to attract people as interims to the public sector, as the new regulations will not apply in the private sector. This may push up public sector rates.
19. Increased employer's NI costs, at 13.8% per individual.

Audrey Sharp  
Acting Head of HR & OD